

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LASHAWN SHARPE, JIM CASTORO, AND
CHRISTINE COONEY individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

A & W CONCENTRATE COMPANY
AND KEURIG DR PEPPER INC.,

Defendants

Case No.: 1:19-cv-00768-BMC

DECLARATION AND EXPERT REPORT OF
J. MICHAEL DENNIS, PH.D.
FEBRUARY 8, 2021

I, J. Michael Dennis, Ph.D., declare as follows:

1. I have been retained by counsel for the Plaintiffs in the matter of *Sharpe et al. v. A & W Concentrate Company and Keurig Dr Pepper Inc.* If called upon to testify, I would and could testify competently to all such subject matter in this expert report.

2. The Product's ingredient list misleadingly conceals the added vanillin as part of the generic "natural flavor" instead of using the specific, non-generic name of the ingredient – "vanillin" or "artificial flavor." 21 C.F.R. § 101.4(b)(1).

3. I have been retained by counsel for the Plaintiffs in the matter of *Sharpe et al. v. A & W Concentrate Company and Keurig Dr Pepper Inc.* If called upon to testify, I would and could

testify competently to all such subject matter in this expert report. Plaintiffs' counsel has retained my services at the hourly rate of \$450. My compensation is not contingent on the results of my work or any outcome of the litigation. My expert opinions expressed in this expert report are solely my own.

QUALIFICATIONS

4. I have been personally involved in the design and conduct of hundreds of statistical surveys using the internet mode of data collection over the last 18 years.

5. Designing and conducting surveys about the opinions, perceptions, attitudes, preferences, and values of consumers, voters, members of associations, and citizens is a service that I have provided for my customers for more than 20 years.

6. Since joining the National Opinion Research Center ("NORC") in December 2014, I have been a Senior Vice President leading the online panel survey research business for NORC. Affiliated with the University of Chicago, NORC has conducted research for Federal, foundation, and academic clients for over 75 years, and is responsible for some of the most prestigious survey projects in the U.S, including the General Social Survey and the Survey of Consumer Finance.

7. For 2012-2013, I was a Managing Director at GfK (which acquired my employer Knowledge Networks in 2012). GfK is the fifth largest market research firm worldwide, offering research services in 90 countries. I have worked as a survey research expert for more than 20 years, authoring more than 60 articles, conference and seminar papers, or book chapters. I am a frequent speaker at the annual meetings of the American Association for Public Opinion Research ("AAPOR") and the American Statistical Association. Given my expertise in online surveys, I was appointed to be a member of the AAPOR Task Force on Online Panels that published

recommendations for researchers regarding online surveys.

8. During the period 2000 to 2013, I managed all the online panel research conducted by Knowledge Networks (acquired by GfK in January 2012) on behalf of federally funded principal investigators who conduct health, economic, social, and political research. When I began at Knowledge Networks as the Vice President of Operations and Survey Research in 2000, I was responsible for leading survey research for the company and for developing the probability-based KnowledgePanel, which was the core company asset for Knowledge Networks. As part of the start-up of Knowledge Networks, I also designed and implemented approximately 20 internally funded surveys in the areas of health, finance, public policy, and consumer research, and oversaw the scientific direction and operational management of the construction of KnowledgePanel.

9. In 2001, I founded the client-facing business unit “Government & Academic Research” for Knowledge Networks. In the role of Managing Director, I oversaw a staff of more than 50 researchers. I advised clients on the design of all phases of their survey research projects, including sample design, questionnaire design, quality control procedures, and data analysis. The research I conducted has had to meet the high-quality standards maintained by federal sponsors of statistical surveys funded by agencies such as the U.S. Centers for Disease Control and Prevention, the Environmental Protection Agency, and the National Science Foundation. I have been the principal investigator for studies funded by the U.S. National Science Foundation. My opinions have been quoted in The Wall Street Journal, The New York Times, Crain’s Chicago Business, and Business Week.

10. Before joining Knowledge Networks, I was a Senior Scientist at Abt Associates, where I managed the data collection for the largest random digit dialing telephone survey in the United States, the National Immunization Survey, which was funded by the U.S. Centers for

Disease Control and Prevention with management support from the National Center for Health Statistics. I also led other survey studies funded by the National Institute on Alcohol Abuse and Alcoholism, the National Cancer Institute, the Social Security Administration, and the White House Office of National Drug Control Policy.

11. I also have extensive experience as a survey expert in the litigation context, including conducting more than twenty consumer surveys.

12. I have designed and conducted consumer surveys that have been accepted by courts in the following cases:

- *Price [Miles] v. Philip Morris*, Case No. 00 L 0112 (Circuit Court, Third Judicial Court, Madison County, Illinois)
- *Zill v. Sprint*, Case No. RG03114147 (Superior Court of the State of California, County of Alameda) (collectively the “cellphone unlocking cases”)
- *Ebin v. Kangadis Food Inc.*, Case No. 1:13-cv-02311 (S.D.N.Y.)
- *Sachs and Alden v. Toyota Motor Corporation*, Case No. BC443701 (Superior Court of the State of California, County of Los Angeles)
- *Avram v. Samsung Electronics America, Inc. and Lowe’s Home Centers*, Case No. 2:11-cv-6973 (KM)(SCM) (D.N.J.)
- *Geanacopoulos v. Philip Morris, USA*, Civil Action No. 98-6002-BLSI (Superior Court for the Commonwealth of Massachusetts)
- *Scotts EZ Seed Litigation*, Case No. 12-CV-4727 (VB)(PED) (S.D.N.Y.)
- *Dzielak v Whirlpool*, Case No. 12-cv-00090 (D.N.J.)
- *Pettit v. Procter & Gamble [RE: Flushable Wipes]*, U.S. District Court for the Northern District of California (Case No. 3:15-CV-02150-RS)
- *Fitzhenry-Russell, et al. v. Dr. Pepper Snapple Group, Inc., et al.*, Case Nos. 5:17-cv-00564-NC (lead); 5:17-02341-NC (consolidated) (N.D. Cal.)
- *Theodore Broomfield, et al. v. Craft Brew Alliance, Inc., et al.*, Case No. 5:17-cv-01027-BLF (N.D. Cal, San Jose Div.)

13. In addition, I have designed and conducted consumer perception surveys in *Price v. Philip Morris*; *Zill v. Sprint*; *Otto v. Abbott Laboratories*; *Ebin v. Kangadis*; *Scotts EZ Seed Litigation*; *Pettit v. Procter & Gamble [RE: Flushable Wipes]*; *Jackie Fitzhenry-Russell v. The Coca Cola Company*, *Fitzhenry-Russell, et al. v. Dr. Pepper Snapple Group, Inc.*, and *Theodore*

Broomfield, et al. v. Craft Brew Alliance, Inc.

14. In designing and conducting my survey in connection with this litigation and in preparing a proposed approach for measuring any price premium associated with the Defendants' use of the challenged "MADE WITH AGED VANILLA" claim, I considered specifically my experience as the testifying research expert in litigations that challenged the Defendants' use of analogous claims in the carbonated soft drinks category, that is, "Made from Real Ginger" (*Jackie Fitzhenry-Russell v. The Coca Cola Company*) and "Made with Real Ginger" (*Fitzhenry-Russell, et al. v. Dr. Pepper Snapple Group, Inc.*).

15. I have testified on more than forty occasions as an expert witness since 2002, including at deposition or trial in the following cases during the last four years:

- Expert Deposition on August 29, 2017, *Jones et al. v. Nutiva*, Case No. 3-16-cv-00711-HSG (N.D. Cal.)
- Expert Deposition on October 17, 2017, *Brenner v The Procter & Gamble Co.*, Case No.: 8:16-1093-JLS-JCG (C.D. Cal.)
- Expert Deposition on October 23, 2017, *Dean et al v Colgate-Palmolive Co.*, Case No. 5:15-CV-00107 (C.D. Cal.)
- Expert Deposition on November 13, 2017, *Joann Martinelli et al v. Johnson & Johnson and McNeil Nutritionals, LLC*, Case No. 2:15-cv-01733-JAM-DAD (E.D. Cal.)
- Expert Deposition on November 21, 2017, *Strumlauf et al v. Starbucks Corporation*, Case No. 4:16-cv-C1306-YGR (N.D. Cal.)
- Expert Deposition on December 11, 2017, *In re: AMLA LITIGATION*, Civil Action No. 1:16-cv-06593 (JSR) (S.D.N.Y.)
- Expert Deposition on January 19, 2018, *Williams-Sonoma Song-Beverly Act Cases*, Case No. JCCP 4611 (Superior Court of the State of California, County of San Francisco)
- Expert Deposition on April 13, 2018, *Fitzhenry-Russell, et al. v. Dr. Pepper Snapple Group, Inc., et al.*, Case Nos. 5:17-cv-00564-NC (lead); 5:17-02341-NC (consolidated) (N.D. Cal.)
- Expert Deposition on June 22, 2018, *Theodore Broomfield, et al. v. Craft Brew Alliance, Inc., et al.*, Case No. 5:17-cv-01027-BLF (N.D. Cal, San Jose Div.)
- Expert Deposition on August 21, 2018, *Anne De Lacour et al. v. Colgate-Palmolive Co. and Tom's of Maine Inc.*, Case No. 16 Civ. 8364 (RA) (AJP) (S.D.N.Y.)
- Expert Deposition on September 5, 2018, *Suzanna Bowling et al. v. Johnson & Johnson and McNeil Nutritionals, LLC*, Case No. 1:17-cv-03982 (S.D.N.Y.)
- Expert Deposition on September 10, 2018, *Dzielak et al. v. Whirlpool*, Civil Action No. 2:12-cv-00089-KM-JBC (D.N.J.)

- Expert Deposition on October 26, 2018, *Ryan Porter and Haarin Kwon v. NBTY, Inc., United States Nutrition, Inc., Healthwatchers (DE), Inc., et al.*, Civil Action No. 15-cv-11459 (N.D. Ill.)
- Expert Deposition on October 30, 2018, *Browning and Basile et al. v. Unilever United States, Inc.*, Case No. 8:16-CV-2210-AG-KES (C.D. Cal.)
- Expert Deposition on February 14, 2019, *Erin Allen et al. v. Conagra Foods Inc.*, Case No. 3:13-CV-01279-VC (N.D. Cal.)
- Expert Deposition on June 21, 2019, *Joseph Gregorio, et al. v The Clorox Company*, Case No. 4:17-cv-03824-PJH (N.D. Cal.)
- Expert Deposition on October 3, 2019, *Patrick McMorrow et al. v. Mondelez International, Inc.*, Case No. 3:17-cv-2327-BAS-JLB (S.D. Cal.)
- Expert Deposition on November 9, 2019, *Buckeye Tree Lodge and Sequoia Village Inn, LLC, et al. v. Expedia, Inc.*, Case No. 16:cv-04721-VC (N.D. Cal.).
- Expert Deposition on December 17, 2019, *Camille Cabrera v. Bayer Healthcare LLC and Bayer Corp.*, Case No. 2:17-cv-08525 (C.D. Cal.).
- Expert Deposition on January 16, 2019. *In Re: Santa Fe Natural Tobacco Company Marketing & Sales Practices and Products Liability Litigation*, Case No. 1:16-md-02695-JB-LF (New Mexico)
- Expert Deposition on April 6, 2020, *Pardini v. Unilever*, Case No. Case No. CV13-1675 SC (N.D. Cal.).
- Expert Deposition on May 27, 2020, *Patrick McMorrow et al. v. Mondelez International, Inc.*, Case No. 3:17-cv-2327-BAS-JLB (S.D. Cal.).
- Expert Deposition on December 30, 2020. *Michael Maeda et al. v. Kennedy Endeavors, Inc.*, Case No. 1:18-CV-00459-JAO-WRP (D. Haw.).
- Expert Deposition on January 19, 2021. *Shelly Benson et al. v. Newell Brands, Inc. and NUK USA LLC.*, Case No. 19-cv-06836 (N.D. Ill.).

16. My current *curriculum vitae* is attached as Attachment A. A list of facts and data considered in forming my opinions is cited in this report or identified in Attachment B.

17. Previous to my engagement as a consultant to Plaintiffs in this litigation, I had never purchased the Defendants' products from a retailer.

SCOPE OF MY EXPERT REPORT

18. I understand Plaintiffs allege that Defendants have engaged in deceptive advertising by using the “MADE WITH AGED VANILLA” descriptor on the packaging of Defendants’ Root Beer and Cream Soda Products.¹ Plaintiffs allege the advertising is deceptive because it conveys to a reasonable consumer that the vanilla flavor in the Products is primarily from vanilla extract from the vanilla bean, rather than primarily from an artificial ingredient. Plaintiffs allege that the vanilla flavor in the Products is mainly derived from the ethyl vanillin, an artificial ingredient, rather than from vanilla extract from the vanilla bean.

19. I understand that the Defendants use the “MADE WITH AGED VANILLA” descriptor prominently on the Products, as shown below from Defendants’ home web site for the Products.

¹ Henceforth, by reference to “Products,” I am referring to Defendants’ diet and regular cream soda and root beer products. The Products are sold in different size plastic and glass bottles and aluminum cans, in sizes such as 12 oz, 20 oz and 2 liters (67.6 oz), and sold in 12-packs of 12-oz. cans. Dkt 35, Amended Class Action Complaint.

Defendants' Products as Shown on A&W's <https://www.rootbeer.com/>²



20. I understood my scope to involve two assignments. First, I was asked to measure (a) the extent to which (if at all) consumers understand the challenged “MADE WITH AGED VANILLA” descriptor on the Products to convey to a reasonable consumer that the vanilla flavor in the Products came mainly from vanilla extract from the vanilla bean and (b) the extent to which (if at all) that this understanding of the “MADE WITH AGED VANILLA” descriptor was material to a reasonable consumer’s purchase decision. Second, I was asked to propose and describe a methodology for measuring any price premium solely attributable to the challenged “MADE WITH AGED VANILLA” descriptor. I will conduct this price premium survey if requested by Plaintiffs’ counsel.

² Accessed on January 25, 2021.

OVERVIEW OF WORK PERFORMED

21. Based on my knowledge and expertise in the fields of survey research and consumer market research, I designed and conducted a consumer perceptions and materiality survey (henceforth, “consumer survey”) in a number of sequential steps explained below. First, I created a sampling plan designed to survey respondents whose responses would project to the study’s target population of purchasers of the Products. Second, I designed the consumer survey based on my research of the Defendants’ product packaging and market research, among other things. Third, I tested the consumer survey through cognitive interviews and pretesting with research subjects. Fourth, I retained a survey vendor to program and execute the survey, as well as administer the survey to consumers of the Products. Fifth, I compiled the data from the completed interviews, reviewed the data to assess the quality of the survey data, and analyzed the interviews. Sixth and finally, I wrote this declaration and expert report (i) to document my consumer survey and my expert opinions based on the survey and (ii) to document my proposed study for a price premium survey to measure any price premium solely attributable to the challenged “MADE WITH AGED VANILLA” claim.

22. I designed and conducted the consumer survey in conformance with best practices for litigation surveys documented by Professor Diamond in her “Reference Guide on Survey Research.”³ My consumer survey employs a sound methodology, in light of the considerations documented by Robert Groves *et al.* in their survey research textbook, Survey Methodology (Second Edition), and by Peter Marsden and James Wright in the Handbook of Survey Research (Second Edition), among others.

³ Shari Seidman Diamond, 2011, “Reference Guide on Survey Research,” Reference Manual on Scientific Evidence (Third Edition).

23. In the paragraphs below, I first provide the findings from the consumer survey, and then I document the steps that I took to design and implement the consumer survey. Afterwards, I document my proposed price premium survey.

FINDINGS FROM THE CONSUMER SURVEY

24. My survey found that over 81.5% of cream soda and root beer purchasers understood the Products' "MADE WITH AGED VANILLA" to mean that the "vanilla flavor comes mainly from vanilla extract from the vanilla plant." Only 12.2% of consumers understood the challenged claim to mean that the vanilla flavor comes mainly from ethyl vanillin or other artificial ingredients. The data from my consumer survey support the conclusion that the challenged descriptor conveyed to reasonable consumers that the vanilla flavor comes mainly from vanilla extract, not from artificial ingredients as alleged by Plaintiffs.

25. Purchasers of the Defendants' cream soda and root beer Products also understood the Products to convey that the vanilla flavor comes mainly from vanilla extract from the vanilla bean: 82.2% of A&W Cream Soda purchasers and 83.2% of A&W Root Beer purchasers.

26. The table below shows the survey results for the consumer perceptions part of my survey.

**Consumer Perceptions of the "Made with Aged Vanilla" Descriptor,
by Purchaser Segment and Total**

Purchaser Segments	No. of Responses	Responses			
		Vanilla extract from the vanilla plant	Artificial ingredient ethyl vanillin, which does not come from the vanilla plant	Other artificial ingredient(s), which does not come from the vanilla plant	None of these
Cream Soda (any brand)	239	79.1%	7.5%	5.9%	7.5%
A&W Cream Soda	174	82.2%	7.5%	5.2%	5.2%
Root Beer (any brand)	473	82.2%	7.4%	4.2%	6.1%
A&W Root Beer	376	83.2%	6.6%	4.8%	5.3%
Total	525	81.5%	7.8%	4.4%	6.3%

27. Consumers' understanding of the Products' packaging do not vary statistically in terms of geographical region (defined by the U.S. Census Bureau), by diet versus regular soft drink purchasers, by cream soda versus root beer purchasers, or by A&W versus non-A&W cream soda and root beer purchasers.

28. The sampling margin of error with 95% confidence is +/- 3.3 percentage points for the 81.5% average statistic, which is the percentage of surveyed respondents that understood the Products' challenged descriptor to convey that the vanilla flavor comes mainly from the vanilla extract from the vanilla plant. Frequent A&W root beer purchasers were more likely to understand the Products' vanilla flavor to come mainly from vanilla extract, compared to infrequent A&W root beer purchasers (chi-square test, $p < 0.05$).⁴

29. My survey also found that over 89.6% of consumers prefer to purchase the "MADE WITH AGED VANILLA" Products for which the main source of vanilla flavor is vanilla extract from the vanilla plant. I refer to the 89.6% as the "materiality rate." Only 7.0% of consumers prefer to purchase the Products' for which the vanilla flavor is mainly from the artificial ingredient ethyl vanillin (which Plaintiffs allege is in fact the main source of flavor of vanilla in the Products). By this finding, I conclude the source of the vanilla flavor is material to consumers' purchasing decisions, with almost 9 out 10 preferring to purchase the "MADE WITH AGED VANILLA" Products for which vanilla flavor is mainly from vanilla extract from the vanilla plant.

30. The table below show the survey results for the materiality part of my survey.

⁴ The statistical difference is apparent when cross-tabulating the consumer perception survey responses to the survey questions to the frequency of purchase question for root beer (CP1 by How_Freq_AW_RB).

Results on Materiality: Percentage of Respondents Preferring to Purchase the "Made with Aged Vanilla" Products Flavored by Vanilla Extract or by Artificial Ingredients, by Purchaser Segment and Total

Purchaser Segments	No. of Responses	Referendum Vote on "Made with Aged Vanilla" Product		
		Flavored by Vanilla Extract	Flavored by Artificial	Don't Know
Cream Soda (any brand)	231	87.0%	10.0%	3.0%
A&W Cream Soda	172	86.0%	11.0%	2.9%
Root Beer (any brand)	460	90.2%	6.5%	3.3%
A&W Root Beer	368	90.2%	6.8%	3.0%
Total	517	89.6%	7.0%	3.5%

31. The materiality rates do not vary statistically in terms of geographical region (defined by the U.S. Census Bureau), by diet versus regular soft drink purchasers, by cream soda versus root beer purchasers, or by A&W versus non-A&W cream soda and root beer purchasers. These groups were statistically more likely to have their purchasing decisions influenced by their preference for the "MADE WITH AGED VANILLA" Products whose vanilla flavor is mainly from vanilla extract: cream soda and root beer purchasers who have been purchasing the Products for three or more years (chi-square test, $p < 0.05$).⁵

32. The sampling margin of error with 95% confidence is +/- 2.6 percentage points for the 89.6% average statistic, which is the percentage of surveyed respondents that preferred to purchase the "MADE WITH AGED VANILLA" Products whose vanilla flavor comes mainly from the vanilla extract from the vanilla plant.

⁵ The statistical differences are apparent when cross-tabulating the referendum survey responses to the survey questions on how frequently the respondent has been purchasing the Products (Referendum_Analysis by How_Long_AW_CS, How_Long_AW_RB).

METHODOLOGICAL CONSIDERATIONS FOR THE CONSUMER SURVEY

33. **Study Target Population.** The study target population for the survey consisted of the non-institutionalized adults age 18 and over residing in the 50 states and the District of Columbia. To qualify for the consumer survey, respondents must answer a series of screening survey questions. The screening questions are mapped to the definition of the study target population. To qualify for the survey and be a study participant, the respondents must answer a series of questions whereby their responses meet all of the following conditions:

- a. Pass a CAPTCHA test to assure that the study participant is not a bot (protecting against fraud and fake users);
- b. Be at least age 18;
- c. Reside in one of the 50 U.S. States or the District of Columbia;
- d. Did not take a survey about carbonated soft drinks/beverages in the past 30 days;
- e. Does at least some of the grocery shopping for his/her household;
- f. Purchased carbonated soft drinks/beverages in stores for his/her personal use in the past 12 months;
- g. Purchased any brand of cream soda or any brand of root beer for his/her personal use in the past 12 months.

34. Therefore, my sampling approach is based on surveying adult consumers who are actual purchasers of cream soda and root beer products.

35. In addition to relying on my research of the Defendants' Products and its competitors, I considered my experience as an expert in using product category sampling in my past surveys accepted by the courts. I used product category sampling in this survey by sampling consumers of the Products and consumers of cream soda and root beer brands that compete with the Products. Product category sampling is common in market research because of a recognition

that consumers of one product in the subcategory (e.g., Colas) are representative of consumers of the overall category (e.g., Carbonated Soft Drinks).⁶ I employed a narrow interpretation of category-based sampling by restricting my sample to actual purchasers of root beer and cream soda products, rather than surveying purchasers of carbonated soft drinks generally.

36. Use of the product category concept in market research has its parallels in the actual marketplace. Retailers rely on the product category concept by grouping like products near each other on shelving in brick-and-mortar stores (such as hair shampoo or hair conditioners). Below is an example of retailers displaying the A&W root beer product by other products in its category.

Retail Display of the A&W Root Beer Product⁷



37. **Cognitive Interviews.** While developing the questionnaire for the consumer

⁶ See Scott M. Smith and Gerald S. Albaum, *An Introduction to Marketing Research*, 2010, p. 124.

⁷ Display inside the Arco gas station in Foster City, California on January 12, 2021.

survey, I conducted eight cognitive interviews with adults who have purchased root beer products in the past 12 months. I conducted the interviews personally on January, 27, 2021. The interviews averaged approximately 20 minutes. The cognitive interviewing methodology provided me an opportunity to determine whether respondents interpreted my survey questionnaires in the manner that I intended and to identify any areas for improving the clarity of my survey questions.

38. Cognitive interviews have no value for providing reliable data for quantitative analysis. Data collected from cognitive interviews have no use for scientific measurement of the characteristics of a population.

39. In my practice, I routinely conduct cognitive interviews simply because it is a best practice for survey development. But ultimately, I conduct the cognitive interviews because the survey respondents are the ultimate judge of whether the survey questions are clear, unbiased, and make sense to them as consumers. To prevent error in surveys, cognitive interviewing is the gold-standard methodology for testing survey questionnaires with respondents.⁸

40. Cognitive interviewing is a much more involved and thorough procedure than simple pretesting, which does not involve any question-by-question conversation about respondents' thought processes in forming and reporting answers to survey questions. Cognitive interviewing, when conducted properly, occurs before the pretest stage.

⁸ According to one of the foremost experts in cognitive interviewing, Gordon Willis and his co-author: Cognitive interviewing is an evidence-based, qualitative method specifically designed to investigate whether a survey question—whether attitudinal, behavioral, or factual in nature—fulfills its intended purpose. The method relies on interviews with individuals who are specifically recruited. These individuals are presented with survey questions in much the same way as survey respondents will be administered the final draft of the questionnaire. Cognitive interviews are conducted before data collection (pretesting), during data collection, or even after the survey has been administered, as a quality assurance procedure.

See Gordon B. Willis and Anthony R. Artino, Jr. What Do Our Respondents Think We're Asking? Using Cognitive Interviewing to Improve Medical Education Surveys. *J Grad Med Educ*. 2013 Sep; 5(3): 353–356.

41. In the cognitive interviews, I showed real consumers the main sections of the survey questionnaire (a mock-up of the consumer perceptions and referendum questions that I made in PowerPoint, as shown in Attachment C). I displayed the mock-up of the survey on their computer screens (using webinar-type software) and asked for their feedback on each survey question as they took the survey. I spoke directly with each respondent on the telephone/VOIP while the respondent viewed my computer screen over the web from their home. Respondents shared with me their thought process as they answered each survey question aurally (telling me which response to enter into the survey). As is standard practice in conducting cognitive interviews, I probed the respondents, encouraging them to explain to me whether the survey questions were clear, whether the survey questions could be improved, and whether the survey was providing them the information they needed to answer the questions.

42. The cognitive interviews confirmed that my consumer survey questions were clear and understandable to the respondents. I did not make changes to the survey because of the cognitive interviews.

43. None of my cognitive interview respondents perceived my survey to be sponsored or funded for a litigation purpose or lawsuit, or as a result of any current event or controversies in the news.

44. **Pretest Survey.** I conducted a pretest to test the consumer survey with a representative sample of members of the study target population. The pretest survey is, in a sense, a dress rehearsal for the data collection. The pretest was conducted online using the same sampling and data collection procedures that I subsequently employed for the full data collection. I conducted the pretest for the following purposes: (i) for quality control and quality assurance testing of the survey instrument, (ii) to validate that the survey questionnaire was programmed

correctly to my specifications, (iii) to identify any survey questions that were unclear to respondents, and (iv) to analyze the data to identify any problems, such as unexpected missing data. On January 29, 2021, Dynata (the survey firm working under my direction) completed 102 interviews with pretest respondents. I paused the data collection while I examined the pretest data the morning of January 30, 2021. I authorized Dynata to resume data collection later that day on January 30, 2021.

45. In my examination of the pretest data, I inspected the data to assure that the survey questionnaire logic, skip patterns, and randomizations were working appropriately. I concluded that the survey was reliable and that no questionnaire wording or logic changes were warranted. I did not make any survey question wording changes to the survey questionnaire based on the pretest or after conducting the pretest. Therefore, since the pretest survey and main study questionnaires are identical, I included the pretest survey interviews in the data set (Attachment F) on which I rely for my analysis and reporting of findings. This is a customary practice in the survey research industry.

46. **Main Study Data Collection Schedule.** After the pretest, Dynata resumed the data collection on January 31, 2021. The data collection was completed on February 4, 2021.

47. **Details on Sample Performance.** Attachment F is the raw survey data capturing the survey responses for all survey responses that started my consumer survey. The attached survey data can be analyzed to account for all the respondents that started the survey and where in the survey their participation was terminated (including respondents that completed the entire consumer perception or referendum parts of the survey). The survey data set, therefore, includes information for all the survey responses, including responses from these study participants:

- Respondents that were not eligible for the survey (i.e., ineligible) and were “screened out” of the survey because of their responses to the screening section of the survey;

- Respondents that “dropped out” of the survey after starting the survey because of a lack of interest or other personal reason(s);
- Respondents that were disqualified because of their answers (e.g., respondents that were not paying adequate attention or did not confirm their study eligibility).

48. 4,764 respondents answered the first survey question about state of residence.

There were 38 respondents that were ineligible because they reported to reside outside the USA. 4,721 respondents answered the gender question and 4,718 answered the age question. 121 respondents were ineligible because they reported being under the age of 18. There were also 418 respondents that were disqualified because their previous responses to the age and gender questions did not match the responses provided in my survey. At this point, 4,597 are still eligible to continue in the screening section of the survey. There were significant “drop-outs” when respondents were asked the educational attainment question, with 4,096 answering that question. There were 4,073 respondents answering the next question about topics of recent surveys that they have completed. There were 615 respondents disqualified because of recent survey taking regarding carbonated soft drinks. The survey also removed 102 respondents because they report to help with “none” of the grocery shopping for the household. 2,479 respondents were asked the questions about their past-year purchases of root beer and cream soda. 203 cases were disqualified for failing the attention check (by selecting the fictitious “Flavor Rite” brand of soft drinks). A small number of respondents were also disqualified for failing to confirm that they had purchased root beer or cream soda products, for failing to indicate which brand of root beer or cream soda they had purchased in the past 12 months, or for declining to agree to follow the survey instructions. In total, there were 1,122 respondents qualified and eligible for the consumer survey after the completion of the screening section of the survey.

49. Prior to starting the main part of the consumer survey, there were 64 respondents that dropped out of the study, leaving 1,058 respondents to be assigned to one of four groups

corresponding to the survey sections. The allocation of the respondents was as follows:

<u>Group Name: Description</u>	<u>No. of Cases</u>
GROUP 1A: Consumer Perceptions – Cream Soda	236
GROUP 1B: Consumer Perceptions – Root Beer	296
GROUP 2A: Referendum - Cream Soda	229
GROUP 2B: Referendum – Root Beer	297

50. There were, therefore, 532 cases assigned to the consumer perception part of the survey and 526 assigned to the referendum part for measuring any materiality. The survey randomly assigned the respondents to the four groups with the constraint that respondents reporting only purchasing cream soda were assigned automatically to the cream soda groups, and respondents reporting purchasing only root beer were assigned automatically to the root beer groups. By this design, respondents were asked questions about products (cream soda or root beer) that they had reported purchasing in the past 12 months.

51. Of the 532 respondents assigned to the consumer perceptions part of the survey, 525 answered the consumer perceptions question. Of the 526 respondents assigned to the referendum for measuring any materiality, 517 answered the referendum question. In total, there were 1,042 respondents that answered either the consumer perception or referendum questions.

52. Attachment F is an Excel file containing the raw survey data for all the respondents that started the survey and including the derived variables that I created for analysis. The column headings (row 1) have the variable names; therefore, each column contains the data for a specific variable. Each row contains the data for each respondent starting the survey. Attachment G is an Excel file that provides the definitions of the variables and values (the “Codebook”) for Attachment F. Put differently, Attachment G is the data dictionary for the raw survey data in Attachment F. All the findings in my expert report can be sources by analyzing the raw survey

data with the codebook as a guide. Attachment H is the Excel file containing the statistical tables having the survey results that I report in my expert report.

53. **Survey Questionnaire Programming and Survey Data Collection.** I retained the survey firm Dynata to provide me with the online survey vendor services for programming the questionnaire, providing the respondent sample, and for collecting the survey data. Based on my experience in the industry (as described above), Dynata is regarded as one of the most credible and reliable non-probability online panels having the necessary scale for this study, which involves collecting a substantial number of interviews on a relatively low-incidence consumer segment in specific states. Dynata programmed my survey questionnaire into an online survey under my active supervision. The actual survey data were collected using survey software and servers operated by Dynata.

54. **Steps Taken to Disguise Survey Objectives from the Respondents.** I took certain steps to avoid a potential risk for the reliability of the study that would result from respondents answering the survey questions strategically to either help or hurt Defendants' interests. I camouflaged the survey objectives to address the risk of strategic responses. First, with respect to the screening section of the survey, my first screening question included a wide variety of product types. Second, I included in the survey a broad assortment of types of soft drinks brands and types of soft drinks. By casting a wide net for the types of dietary and beverage products, I disguised the research objectives from the respondents.

55. **Randomizations in the Survey to Control for Potential Order Effects.** I made extensive use of randomizations in the survey questionnaire to control for the potential impact on survey responses that could result from the order in which respondents are shown response options (e.g., CP1 for the consumer perception question), the order of the attributes in the referendum

choice table, and in randomizing Product A versus Product B in the referendum section. The randomizations are documented in Attachment D where I document the questionnaire logic.

DESCRIPTION OF THE SUBSTANTIVE SURVEY QUESTIONNAIRE

56. The question wording and survey logic are documented in Attachment D, while Attachment E shows the actual online screen captures documenting the respondents' experience in participating in my survey. Below I provide additional information on the considerations in designing each of the main study survey questions. This part of the survey was administered to respondents that qualified for the survey as members of the study target population.

57. As mentioned, after the screening section of the survey, the survey assigned respondents to one of four substantive survey sections: Group 1A Consumer Perceptions/Cream Soda, Group 1B Consumer Perceptions/Root Beer, Group 2A Referendum/Cream Soda, and Group 2B Referendum/Root Beer. That is, I designed the survey to measure consumer perceptions for cream soda purchasers in one section of the survey, and then an identical survey section for root beer purchasers. I followed the same process in designing the referendum section of the survey to measure any materiality. The cream soda and root beer question batteries are identical with the exception of the appropriate substitution of the words "Cream Soda" and "Root Beer" and substitution of product images for cream soda versus root beer products.

58. To simplify the presentation, I document below the root beer path for the consumer perceptions and referendum sections of the survey. The cream soda batteries of questions are identical except for substitutions of appropriate "cream soda" words and product images.

59. **Documenting the Consumer Perceptions Section of the Survey.** The purpose of this section was to measure the extent to which, if any, that the Plaintiffs' allegations have merit with respect to whether the reasonable consumer understands the "MADE WITH AGED

VANILLA” descriptor on the Products to mean that the vanilla flavor comes mainly from vanilla extract from the vanilla bean or to mean that vanilla flavor comes mainly from the artificial ingredient ethyl vanillin or other artificial ingredients.

60. The first online screen in the main part of the survey explained the survey will be asking about their “understanding of product labels on **ROOT BEER soft drinks.**” As shown below, I assured respondents that “there are no right answers or wrong answers.”

First Screen in the Consumer Perceptions Section

Now, we will ask you about your understanding of product labels on **ROOT BEER soft drinks.**

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

61. The second screen sets the stage for the rest of the survey by informing the respondents that the survey will show them the labels of a “**ROOT BEER product**” and instructing them to consider each of the products “like you are in a store considering a product.” The instruction is to assure respondents will take their time and view each of the products carefully. I also required the respondents to stay on the screen for each product image for at least 10 seconds. At this point in the survey, the respondent has been told that they will be asked about their understanding of the “MADE WITH AGED VANILLA” descriptor.

Second Screen in the Consumer Perceptions Section

Next, we are going to show you the labels of a **ROOT BEER** product.

Please take your time and view each of the products like you are in a store considering a purchase.

You might need to wait a few seconds before being able to go to the next screen.

62. Because the survey is measuring consumers' understanding of the product packaging, I next showed images of the front of the product. I showed three different sizes with substantial sales: the 12 oz. can, the 2-liter bottle, and 12-pack of the 12 oz. cans.⁹ Each product was shown on its own screen. The product images shown the respondents are below.



⁹ The product images in my survey are from Walmart.com, Target.com, Safeway.com, and Google searches on product images. The PDFs of the visited websites are in Attachment I.



63. After the respondents viewed the product images, the survey provided the respondents some encouragement (“Thanks for viewing the product labels carefully”).

64. Then the key consumer perception question was administered. I designed the close-ended survey question to collect reliable and valid information to address the issues in the litigation. The survey question tests the Plaintiffs’ allegation that the “MADE WITH AGED VANILLA” descriptor is misleading because it conveys to a reasonable consumer that the vanilla flavor comes mainly from the vanilla bean.

65. The consumer perception question asks the respondent to select the “option that is closest to your understanding of the “MADE WITH AGED VANILLA” statement. Following best practices, I provided a “None of these” option in the event that none of the provided options is relevant or applicable to the respondent. I provided the 12 oz. product image again. Respondents had the option to click on the image to see it enlarged. I provided two options for the “artificial ingredients,” while providing only one option that maps the Plaintiffs’ allegations. Therefore, respondents had two opportunities to select an option that aligns with Plaintiffs’ allegations about the actual main source of vanilla flavor in the Products (i.e., “Artificial ingredient ethyl vanillin” and “Other artificial ingredient(s)”), and only one option that maps to the Plaintiffs’ theory of liability (i.e., “Vanilla extract from the vanilla plant”).

Consumer Perceptions Survey Question

Based on your understanding of the product labels we showed you, what is your understanding of the statement **"MADE WITH AGED VANILLA"** on the A&W Root Beer product?

Please select the option that is closest to your understanding of the "MADE WITH AGED VANILLA" statement. Please click on the product to view again.



The vanilla flavor comes mainly from...

- ☐ Artificial ingredient ethyl vanillin, which does not come from the vanilla plant
- ☐ Other artificial ingredient(s), which does not come from the vanilla plant
- ☐ Vanilla extract from the vanilla plant
- ☐ None of these

66. I purposely used the close-ended question format, whereby respondents were asked to select from a list of possible options. I deliberately did not use an open-ended format for this key question. To clarify, an open-ended question format is one where the respondent is asked to write in their own words a response to the survey question, instead of having a list of response options provided to them. The central problem with open-ended survey questions is that respondents must be sufficiently motivated, literate, and expressive to comply with the survey's request to articulate and write out their thoughts in an online survey or self-administered paper-and-pencil survey. Respondents vary on these three dimensions, leading to uneven accuracy and depth in responses. For these and other reasons, closed-ended questions are preferable for reliable

quantitative measurements of opinions.¹⁰

67. **Documenting the Referendum Section of the Survey**. The purpose of this section of the survey is to measure any materiality attributable to consumers' preference for "MADE WITH AGED VANILLA" Products for which the main source of vanilla flavor is vanilla extract from the vanilla bean.

68. I refer to this section of the survey as the "referendum" section of the survey in reference to a question format used in contingent valuation surveys, based on the prestigious scientific tradition memorialized in the Nobel Prize Winner Kenneth Arrow's report, prepared with other esteemed economists, called the Report of the NOAA Panel on Contingent Valuation.¹¹ I did not conduct a contingent valuation survey in this litigation. However, the referendum question format used as part of contingent valuation methodology is useful for measuring any materiality attributable to litigated claims.

69. The referendum question measures consumers' preference to purchase either the Defendants' Products whose vanilla flavor comes mainly (i) from vanilla extract or (ii) from the artificial ingredient ethyl vanillin. The referendum, therefore, is a test of consumers' preference for one of two products: one consistent with Plaintiffs' theory that Defendants misled consumers into believing that the main source of vanilla flavor is from vanilla extract from the vanilla bean; and another that is consistent with Plaintiffs' allegation that the main source of vanilla flavor is from the artificial ingredient ethyl vanillin.

¹⁰ See Bradburn, N. M., Sudman, S., & Wansink, B. 2004. *Asking Questions: A Practical Guide to Questionnaire Design*, p. 167; Dillman, Don A., et al. 2014. Internet, Phone, Mail, and Mixed-Mode Surveys: The Tailored Design Method, 4th Edition. at 208-209; Schuman, H. & Presser, S. 1981. Questions and Answers in Attitude Surveys, New York: Academic Press.

¹¹ Arrow, K., R. Solow, P. R. Portney, E. E. Leamer, R. Radner, and H. Schuman. 1993. "Report of the NOAA Panel on Contingent Valuation," Federal Register, January 15, vol. 58, no. 10, pp. 4601-4614.

70. To avoid any doubt by what I mean in referring to the “referendum” section, below is the actual series of screens that respondents saw in this section of the survey. I randomized the order of the products so that a random half of the respondents saw “Root Beer A” as the product flavored with vanilla extract, while the other random half of the respondents saw “Root Beer A” as the product flavored with the artificial ingredient ethyl vanillin. Respondents that had indicated that they mostly purchase diet soft drinks were provided survey content and product image for “diet” Products. The survey informed the respondents that “Root Beer A and Root Beer B are the same” with respect to A&W brand, price, and other attributes such as both having the label claims “MADE WITH AGED VANILLA” and “Naturally and Artificially Flavored.” I then presented either the diet A&W product image or the regular A&W product image, based on their earlier report of which of the two types of soft drink that they purchase the most.

71. Furthermore, the survey explains that the “one difference” between the products is about the “vanilla flavor in the statement **MADE WITH AGED VANILLA** on the package.” The survey explains that for one product the vanilla flavor comes mainly from vanilla extract and that for one product the vanilla flavor comes mainly from the artificial ingredient ethyl vanillin.

72. Below are the first few screens shown respondents, prior to asking the referendum question.

Introductory Screen Captures for the Referendum Section (Prior to the Referendum Question Itself)

Now, we have a few questions to get your feedback and opinions about **ROOT BEER** soft drinks.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

Suppose you go to the store where you usually purchase **ROOT BEER** soft drinks.
Also, please suppose you intend to buy a regular (non-diet) **ROOT BEER** product.

Suppose there are two types of A&W brand root beer available in the store.
We'll call them **ROOT BEER A** and **ROOT BEER B**.
You don't have time to go to a different store.

ROOT BEER A and **ROOT BEER B** are the same in these ways.

- A&W Brand
- Price
- Regular Soft Drink (not diet)
- No Caffeine
- Number of Calories per 12-ounce serving
- Number of 12-ounce cans

ROOT BEER A AND ROOT BEER B



The one difference between the two products is about the vanilla flavor in the statement **MADE WITH AGED VANILLA** on the package.

For one of the products, the vanilla flavor comes mainly from **vanilla extract** and for the other product the vanilla flavor comes mainly from **artificial ingredient ethyl vanillin**.

The only difference between the two products is the main source of the vanilla flavor.

The vanilla flavor for Root Beer **A** comes mainly from vanilla extract, which comes from the vanilla plant.

The vanilla flavor for Root Beer **B** comes mainly from artificial ingredient ethyl vanillin, which does not come from the vanilla plant.

73. The survey then asked the respondents which of the two products they would purchase, showing a table that clearly describes Root Beer A and Root Beer B. Respondents had the option to select “Don’t Know.” I randomized the order of the attributes in the table with certain constraints.¹² For respondents selecting either Root Beer A or Root Beer B (that is, did not select “Don’t Know”), the survey asked a confirmation question. Respondents had the opportunity to confirm or not confirm that the selected product was the product they would purchase. There were six respondents that indicated that they do not confirm their referendum responses. The referendum part of the survey is completed once the confirmation question is answered.

74. Below is the actual referendum question shown to the respondents.

¹² Brand was always the top-listed attribute. Also, these two attributes were always shown next to each other: statement on package about flavor sources; statement on package about vanilla ingredient.

If these were your only two options, which of these two **ROOT BEER** products would you purchase?

Click [HERE](#) to see the package again.

Product Features	ROOT BEER A	ROOT BEER B
Brand	A&W	A&W
Statement on Package about Vanilla Ingredient	MADE WITH AGED VANILLA	MADE WITH AGED VANILLA
Statement on Package about Flavor Sources	Naturally and Artificially Flavored	Naturally and Artificially Flavored
Price	Same	Same
Calories per serving	Same	Same
Diet or Regular Soft Drink	Regular	Regular
Number of 12-ounce cans	12	12
Main Source of Vanilla Flavor	Vanilla extract	Artificial ingredient ethyl vanillin
Please select one for purchase	<input type="radio"/>	<input type="radio"/>
	<input type="radio"/>	Don't Know

75. **Final Battery of Survey Questions.** For all respondents completing either the consumer perceptions or referendum sections of the survey, the survey then administered a few final items to collect information that I anticipated would be useful for analyses. First, for the purchasers of A&W cream soda and/or root beer, there is the purchase history question to measure how long ago the respondent first started purchasing the Products. Second, also for the purchasers of A&W cream soda and/or root beer, there is the purchase frequency question to measure how often respondents purchased the products in the past year. Finally, for all respondents completing either the consumer perceptions or referendum sections of the survey, I asked respondents about whether they were aware of any negative publicity or other news about A&W soft drink products.

I asked this question to see if there is any potential bias in the survey responses owing to respondents being aware of the litigation.

SURVEY DATA QUALITY MEASUREMENT

76. **Respondent Engagement.** Respondents to the consumer survey were engaged and in general took their time in answering, as indicated by the amount of time spent answering the survey questions. By the standard of consumer surveys, the survey here was very short and did not require substantial respondent burden. There was only one substantial consumer perception question and one substantial referendum question. At the end of the survey, respondents were administered between three and five questions. Consequently, the median length of time spent answering the survey questions is only 7.6 minutes for the respondents completing the survey (defined as answering the negative publicity question at the end of the survey). Because the survey questionnaire is short, respondents were not fatigued by the length of my survey.

77. **Sample Representativeness.** My interviewed sample is a representative sample of consumers. An examination of the 1,042 respondents that completed either the consumer perceptions or referendum section of my survey shows the broad diversity of my interviewed sample.

- 49.7% of my respondents are female and 50.3% are male; my survey did not over-represent females as is common in market research surveys;
- 41% of my respondents are below the age 40, assuring that my survey represents younger adults that are often under-represented in market research surveys;
- 45% of my respondents had purchased cream soda in the past 12 months;
- 89% of my respondents had purchased root beer in the past 12 months;
- 33% of my respondents had purchase A&W cream soda in the past 12 months;
- 71% of my respondents had purchased A&W root beer in the past 12 months;

- Among the cream soda purchasers (any brand) in the past 12 months, 21% had purchased diet cream soda the most often and 79% had purchased regular cream soda the most often.
- Among the root beer purchasers (any brand) in the past 12 months, 22% had purchased diet root beer the most often and 78% had purchased regular root beer the most often.
- Among the respondents having purchased A&W cream soda in the past 12 months, 70% were somewhat frequent or frequent purchasers of the product and 79% had first started purchasing the product three or more years ago;
- Among the respondents having purchased A&W root beer in the past 12 months, 69% were somewhat frequent or frequent purchasers of the product and 85% had first started purchasing the product three or more years ago;
- None of my respondents were disqualified as result of reporting (to the “negative publicity” question) that they were aware of litigation against the Defendants related to the issues in this litigation.

CONCLUSIONS REGARDING THE CONSUMER SURVEY I CONDUCTED

78. I drew on my 20 years in designing and conducting online surveys and over 25 years of experience in survey research to design and produce a reliable consumer survey. I followed a rigorous protocol for developing the survey questionnaire using pretesting. I carried out a series of quality control and quality assurance measures to confirm that the respondents understood the survey questions. I designed the survey sample to identify US adult consumers who had purchased cream soda and/or root beer products and who met a number of criteria that I devised to assure a representative and qualified sample of respondents. I processed, analyzed, and reported on the survey data based on my experience and expert judgment.

79. In my expert opinion, my consumer survey provides a reliable and accurate measurement of (i) the extent to which class members understand the “MADE WITH AGED VANILLA” to communicate that the Products’ vanilla flavor comes mainly from vanilla extract from the vanilla bean and (ii) any materiality associated with consumers’ preference for “MADE WITH AGED VANILLA” Products for which the main source of vanilla flavor is vanilla extract from the vanilla bean.

80. With respect to consumer perceptions, I conclude from my consumer survey that a reasonable consumer in the state of New York and in the rest of the country perceives the “MADE WITH AGED VANILLA” descriptor on the Products’ packaging to convey that the vanilla flavor comes mainly from the vanilla extract from the vanilla plant.

81. I also conclude from my consumer survey that, with respect to the Defendants’ “MADE WITH AGED VANILLA” Products, the main sourcing of the flavor from vanilla extract from the vanilla plant is material to a reasonable consumer’s purchase decision in the state of New York and in the rest of the country.

82. The facts and data that I considered for developing the surveys and my opinions in this report are cited herein and listed in my attached reliance list.

**METHODOLOGY FOR CONDUCTING
A PRICE PREMIUM SURVEY AND ANALYSIS**

83. I have been retained by Plaintiffs' counsel to provide a proposed method for calculating damages in this matter on a class-wide basis, and if ultimately called upon to do so, perform the analysis, which will measure the market price premium attributable to consumers' economic valuation for "MADE WITH AGED VANILLA" Products whose main source of flavor is from vanilla extract from the vanilla bean. The research question is the extent to which class members paid a price premium as a result of being misled into believing the "MADE WITH AGED VANILLA" Products have vanilla flavor mainly from vanilla extract from the vanilla bean. In the below discussion, I shall refer to this attribute as the "challenged claim."

84. The market price premium attributable to the challenged claim can be determined through one or more conjoint surveys, which will generate a set of thousands of data points that can be utilized by a market simulator that incorporates real-world demand and supply factors based on both the survey data and independent real world historical information regarding the carbonated soft drink market. In my expert report, I use the terms "conjoint survey" and "price premium survey" interchangeably.

85. Conjoint methodology has been widely accepted by courts as being capable of measuring the price premium associated with challenged labeling representations in false advertising class actions in accordance with the requirements of *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013). This is because when the results of a reliable conjoint survey are used in conjunction with a market simulator that incorporates both demand and supply side factors (such

as pricing, historical sales, and competitor products), the actual marketplace price premium associated with the challenged claim can be estimated. This market price premium can then be used to calculate class-wide damages.

86. While I have not been asked to fully execute the survey or surveys (i.e., collect survey responses and calculate the price premium associated with the challenged claims), I have prepared the design of the conjoint survey or surveys. I am fully prepared to conduct the conjoint survey or surveys for this project and calculate the market price premium, if any, solely attributable to the challenged claims, and to make the necessary calculations of any price premium attributable to each challenged claim.

87. I am a court-qualified expert for conducting surveys using the conjoint and related choice survey methodologies. I have designed and conducted such surveys that have been accepted by courts in the following cases:

- *Price [Miles] v. Philip Morris*. In the Circuit Court, Third Judicial Court, Madison County, Illinois. Case No. 00 L 0112.
- *Zill v. Sprint*. County of Alameda, Superior Court of the State of California. Case No. RG03114147. Collectively the “cellphone unlocking cases.”
- *Ebin v. Kangadis Food Inc.* U.S. District Court for the Southern District of New York. Case No. 1:13-cv-02311.
- *Sachs and Alden v. Toyota Motor Corporation*. Superior Court of the State of California, County of Los Angeles.
- *Avram v. Samsung Electronics America, Inc. and Lowe’s Home Centers*. In the United States District Court for the District Of New Jersey. Civil Action No. 2:11-cv-6973 (KM) (SCM).
- *Geanacopoulos v. Philip Morris, USA*. Commonwealth of Massachusetts Superior Court. Civil Action No. 98-6002-BLSI.
- *Scotts EZ Seed Litigation*. U.S. District Court for the Southern District of New York. Case No. 12-CV-4727 (VB) (PED).
- *Joann Martinelli et al. v. Johnson & Johnson and McNeil Nutritionals, LLC*, Case No. 2:15-cv-01733-JAM-DAD (E.D. Cal.).
- *Erin Allen et al. v. Conagra Foods Inc.* U.S. District Court, Northern District of California. Case. No. 3:13-CV-01279-VC.

- *Fitzhenry-Russell, et al. v. Dr. Pepper Snapple Group, Inc., Dr Pepper/Seven Up, Inc., and Does 1-50*. U.S. District Court, Northern District of California. Case. Case Nos. 5:17-cv-00564-NC (lead); 5:17-02341-NC.

88. In designing my proposed conjoint survey for this litigation, I will follow the same rigorous procedures that I followed in designing and conducting the surveys that have been accepted by the courts. In particular, I will draw on my experience from *Fitzhenry-Russell* as that case involved a carbonated soft drink with a similar theory of liability.

89. **Overview of Conjoint Survey Methodology and Conjoint Analysis.** The price premium survey will use the choice-based conjoint methodology, which is the same methodology that I have used on various projects noted in my statement on my expert qualifications.

90. Conjoint surveys take advantage of the fact that consumers are profoundly familiar with the task of shopping – comparing products, evaluating them, and making choices. Consumers are accustomed to making choices in their real-world shopping experiences. An industry leader in conjoint analysis tools observes:

Choice-based conjoint analysis has attracted much interest in the marketing research field. There are several reasons for its position as the most widely used conjoint-related approach today: The task of choosing a preferred concept is similar to what buyers actually do in the marketplace. Choosing a preferred product from a group of products is a simple and natural task that everyone can understand.¹³

91. Prior to the adoption of choice-based conjoint in marketing research, it was common for researchers to ask respondents to rank and rate new product concepts and features. Choice-based conjoint, in contrast, asks the respondent to express their preferences by choosing from sets of concepts (such as product profiles). As such, the respondent experience in answering choice-based conjoint surveys is similar to what buyers actually do in the marketplace – that is,

¹³ Sawtooth Software Technical Paper Series, 2017, “The CBC System for Choice-Based Conjoint Analysis,” p.2.

choosing a preferred product from a group of products.

92. Conjoint analysis is a survey methodology that is capable of isolating and measuring the value of an individual product attribute such as a specific understanding of a challenged claim. Although it has gained wide acceptance in litigation over the past several years following *Comcast*, conjoint analysis has been widely used and accepted in industry for decades. Choice-based conjoint, which is the specific methodology I will use, is the most widely used type of conjoint survey.¹⁴ Over 18,000 conjoint surveys are estimated to take place each year in commercial applications.¹⁵ Specifically, choice-based conjoint is a standard marketing research technique for quantifying consumer preferences for products and for the component features that make up a product.¹⁶ Conjoint analysis can be used to break down the value of a conceptual feature into its component parts. Conjoint surveys are used widely in industry and government.¹⁷ Conjoint is widely accepted by courts as a reliable methodology.¹⁸

¹⁴ See generally, the Sawtooth Software technical papers on choice-based conjoint available at <http://www.sawtoothsoftware.com/support/technical-papers>. See Orme, 2014; Orme and Chrzan, 2017), Sawtooth Software Technical Paper Series, 2009, 2017.

¹⁵ Orme, 2014, p. 143.

¹⁶ Orme, 2014.

¹⁷ While conjoint surveys have been common in market research since the 1990s for product development and other purposes, it is increasingly used in the public sector. For instance, the Food and Drug Administration uses the approach in regulatory benefit-risk assessments. (F. Reed Johnson and Mo Zhou, 2016, “Patient Preferences in Regulatory Benefit-Risk Assessments: A US Perspective). In another example, public health planners are increasingly using choice-based conjoint to collect public input in health service planning, healthcare finance debates, and the treatment choices of individual patients, among other uses. Charles E. Cunningham, Ken Deal, and Yvonne Chen, December 2010, “Adaptive Choice-Based Conjoint Analysis: A New Patient-Centered Approach to the Assessment of Health Service Preferences.”

¹⁸ See, e.g., *Dzielak v. Whirlpool Corp.*, 2017 WL 1034197, at *6-8 (D.N.J. Mar. 17, 2017) (finding related methodology “passes muster under the *Daubert* considerations,” including its “relationship to other established reliable techniques (particularly, the conjoint analysis technique of which it is a part)”; *In re: Lenovo Adware Litig.*, 2016 WL 6277245 (N.D. Cal. 2016) (certifying class where damages model was based on conjoint analysis); *In re ConAgra Foods, Inc.*, 90 F. Supp. 3d 919, 1027-31 (C.D. Cal. 2015) (concluding an expert’s “conjoint analysis is, at this stage, sufficiently reliable to be used in calculating class-wide damages”); *Guido v. L’Oreal USA, Inc.*, 2014 WL 6603730, at *4-8 (C.D. Cal. 2014) (collecting cases and finding conjoint analysis satisfied class certification requirements of

93. In a conjoint survey, survey participants are presented with a “choice exercise” in which they are typically shown a set of 3 or 4 hypothetical products and asked to choose which of the products, if any, they would purchase. The hypothetical products in conjoint surveys are typically comprised of 6 to 8 “attributes” that reflect attributes that consumers consider in making purchasing decisions. For consumer-packaged goods, attributes that consumers typically consider in their purchasing decisions include things like product brand, packaging claims, product size and, of course, price.

94. For each product attribute, there are various “levels” of the attribute. For example, if a conjoint was considering golf balls, attributes might be model and brand, performance, and price.¹⁹ The levels of the brand attribute might be “Pro V1, by Titlest,” “Eclipse+, by Golfers, Inc.,” “Long Shot, by Performance Plus,” “RZN by Nike,” “High-Flyer, by Smith and Forester.” The levels for the performance attribute might be that the ball drives 20 yards farther than the average ball, 15 yards, 10 yards, 5 yards, or 0 yards.

95. The levels for each product attribute are systematically randomized so that the hypothetical product choices respondents are presented with will have a mix of products with different combinations of attribute levels. Therefore, one choice exercise presented to respondents

Comcast); *TV Interactive Data Corp. v. Sony Corp.*, 929 F. Supp. 2d 1006, 1020-26 (N.D. Cal. 2013) (denying motion to exclude conjoint analysis) *Microsoft Corp. v. Motorola, Inc.*, 904 F. Supp. 2d 1109, 1119-20 (W.D. Wash. 2012) (conjoint analysis survey was “admissible as relevant under FRE 401 and 402 and . . . sufficiently reliable under FRE 702 and *Daubert*”); *see also Khoday v. Symantec Corp.*, No. 11-180 (JRT/TNL), (2014 WL 1281600, at *10 (D. Minn. March 13, 2014); *Sanchez-Knutson v. Ford Motor Company*, 310 F.R.D. 529, 538-39 (S.D. Fl. 2015); *Brown v. Hain Celestial Group, Inc.*, 2014 WL 6483216, at *19 (N.D. Cal. Nov. 18, 2014); *Microsoft v. Motorola, Inc.*, 904 F.Supp.2d 1109, 1119-20 (W.D. Wa. 2012); *In re Scotts EZ Seed Litig.*, 304 F.R.D. 397, 413-15 (S.D.N.Y. 2015); *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017).

¹⁹ The example here comes from Sawtooth Software Technical Paper Series. Sawtooth is one of the leading software providers for market simulators for conjoint analysis and is considered a leading authority regarding conjoint analysis. *See* Sawtooth Software Technical Paper Series, 2017, “The CBC System for Choice-Based Conjoint Analysis,” p.9.

might look like the following.

Sawtooth Example of a Standard Choice-Based Conjoint Task Displayed to Respondents

If you were considering buying golf balls for your next outing and these were the only alternatives, which would you choose?

(1 of 14)

Brand:	Eclipse+, by Golfers, Inc.	Long Shot, by Performance Plus	High-Flyer Pro, by Smith and Forester	
Performance:	Drives 15 yards farther than the average ball	Drives 10 yards farther than the average ball	Drives 5 yards farther than the average ball	NONE: I wouldn't choose any of these.
Price:	\$8.99 for package of 3 balls	\$10.99 for package of 3 balls	\$6.99 for package of 3 balls	
	Select	Select	Select	Select

96. Based on respondents' choice of a specific product (or selecting no product) their preferences for specific attributes and the attribute levels are revealed. By having each survey respondent repeat the choice task 12 to 20 separate times (each with a unique set of products with systematically varied levels of the attributes) and having a statistically significant number of survey respondents (typically in the hundreds), the choices made by survey respondents will provide thousands of data points from which the market price premium attributable to a particular attribute can ultimately be determined.

97. This is done through the use of hierarchical Bayes regression analysis which processes the survey data, along with information about historical prices, and by the use of a market simulator that not only includes information on consumer choice (demand-side factors) but also

supply-side factors such as historical sales and pricing. When performed in this manner, a reliable estimate of the real-world market price premium attributable to a product attribute can be calculated.

98. For example, using the above survey and a proper market simulator might reveal that there is only a \$0.05 market price premium for golf balls that drive 5 yards farther than the average golf ball but a \$2.00 market price premium for golf balls that drive 20 yards farther than the average golf ball.

99. If asked to design and conduct a conjoint survey, I will rely on my extensive expertise in consumer market research, price premium surveys and analysis, and survey research, more generally. I also will rely on my review of any documents produced by Defendants, including actual sales data, the packaging of Defendants' Products and that of its competitors, and market research conducted by or commissioned by the Defendants. I also will rely on my conducting in-depth cognitive interviews with ten or more consumers of the Defendants' Products. I also will rely on information from local market scans of Defendants Products and competitors' products in grocery, big box, and drug stores in the San Francisco, CA and other metropolitan areas.

100. When requested, I will execute the conjoint survey, collect the results, perform a market simulation using demand- and supply-side factors, analyze the results to determine the market price premium (if any), and prepare a report explaining the findings.

101. The price premium survey, as indicated by its name, will measure the market price premium, if any, that is attributable to the challenged claim used by Defendants on its Products. The price premium survey will also provide evidence of the extent to which the challenged claim is material to consumers' purchasing decisions, since there will only be a market price premium if the claim is material to consumers. The design and execution of the price premium survey involves

eight sequential steps—following the accepted best practices in survey design and implementation—as summarized here and explained in detail further below.

102. First, to ensure my survey provides an appropriate model for ultimately determining the market price premium attributable to the challenged claims, I will review and consider numerous materials and documents relating to the Products and the carbonated soft drink market. This ensures that my survey provides an appropriate model of the real-world marketplace. Such documents include, but are not limited to, any Defendants’ deposition testimony, any market research made available to me through the discovery process, the labeling of the Products and the labeling of competitor products, retail sales and transaction data for the proposed class period, online searches for retail price information for the Products, and information from in-person visits to brick-and-mortar stores selling the Products and competing products.

103. Second, to further ensure the accuracy and reliability of my survey, I will identify an appropriate survey sample of consumers that will ensure that the responses to my survey will be generalizable to the proposed classes.

104. Third, I will design the conjoint survey questionnaire based on my review of the various materials noted above and based on my twenty-five years of experience in survey research, among other things. In designing the conjoint survey, I will consider supply-side factors and real-world market transaction information from consumer transaction data for the Products and competing products.

105. Fourth, to execute the survey, I will retain a survey vendor to program the survey questionnaire that I designed so that it can be conducted online.

106. Fifth, to test whether respondents understand the questionnaire, I will conduct cognitive (“one-on-one”) interviews with consumers of the Products using my price premium

survey.

107. Sixth, after making any necessary changes to the survey based on my cognitive interviews and review of the survey, I will pretest the survey with consumers.

108. Seventh, I will field the survey to collect responses and compile the data from the completed interviews, review the data to verify the quality of the survey data.

109. Eighth, I will perform a market simulation analysis using hierarchical Bayes regression analysis to process the survey data, along with information about historical prices and sales (thereby accounting for both demand-side and supply-side factors) to reliably determine whether there is a real-world market price premium attributable to the challenged claims and if so, what is the amount of that premium.

110. After following these eight steps, I will prepare a declaration and expert report based on the price premium survey I conducted.

111. **Methodological Considerations for the Price Premium Survey.** I will design the price premium survey and will perform the final execution of the survey in conformance with best practices for litigation surveys as documented by Professor Shari Seidman Diamond of Northwestern University in her “Reference Guide on Survey Research.”²⁰ My survey employs sound methodology, in light of the considerations documented by Robert Groves et al. in their survey research textbook, Survey Methodology (Second Edition), by Peter Marsden and James Wright in the Handbook of Survey Research (Second Edition), by Norman Bradburn et al in Asking Questions, by Roger Tourangeau et al. in The Psychology of Survey Response, and by marketing scientists specializing in price premium surveys and analysis (Green and Srinivasan,

²⁰ Shari Seidman Diamond (2011) “Reference Guide on Survey Research,” Reference Manual on Scientific Evidence (Third Edition).

1990; Orme, 2014; Orme and Chrzan, 2017; Sawtooth Software Technical Paper Series, 2009, 2017), among others.

112. In conducting the price premium survey for this litigation, I will follow the same practices that I have followed outside of litigation, for example, research for a company seeking to understand how consumers perceive or understand information on their labeling or marketing statements. I will follow the same practices that guided me in conducting my other surveys that have been accepted by the courts, including *Fitzhenry*.

113. **Study Target Population.** I will define the study target population using best survey practices and to reflect members of the proposed New York class. From this target population, an appropriate sample of survey respondents will be randomly selected. When a target population and sample are appropriately defined and selected, the results of the survey will provide a reliable measurement of the market price premium, if any, paid by members of the proposed class New York.

114. I expect, broadly speaking, that my survey will target a national population of non-institutionalized adults age 18 and over who had purchased one of more of the Products in the past 12 months for personal or household use. I plan to select purchasers of the Defendants' Products from the past 12 months because these respondents can be expected to have accurate recall of their having purchased specific Products varieties. Accurate recall of purchasing the Products is relevant to assure that the survey appropriately targets class members. Before executing the survey, I will determine if sampling changes are warranted based on additional information and research obtained or conducted in the intervening period.

115. **Screening Survey.** My price premium survey will begin with a screening section of the survey to identify a representative sample (defined above) consumers for participating in

the price premium survey.

116. To qualify for the price premium surveys, respondents will be asked to answer a series of screening survey questions. The screening questions are mapped to the definition of the study target population. To qualify for the price premium survey, the respondents will need to meet all of the following conditions: be a resident of one of the fifty U.S. states or the District of Colombia; be at least age 18; completed successfully the CAPTCHA test to eliminate the potential for robot-simulations of respondents;²¹ provide age and gender information in the survey that matches their responses to age and gender questions previously administered to the respondents; did not take a survey about carbonated soft drinks in the past 30 days; and purchased one or Defendants' Products in the past 12 months. In addition, to qualify for the survey, the consumer must not select a fictitious brand name product that I will insert in the response list of carbonated soft drinks products. Respondents must also be willing to answer the survey questions by themselves, answer the questions honestly, and answer without asking for the help of others.

117. **Steps Taken to Disguise Survey Objectives from the Respondents.** For my price premium survey, I will take steps to avoid a potential risk for the reliability of the study that would result from respondents answering the survey questions strategically to either help or hurt Defendants' interests. I will camouflage the survey objectives to address the risk of strategic responses. First, with respect to the screening section of the survey, my screening questions will include a wide variety of household, food, and beverage product types ranging from household cleaning supplies to insect and pest control to food products like beverages and dietary supplements. My filter questions will also similarly cover a broad range of food and beverage products, with no salience or emphasis brought to root beer or cream soda beverages. I will also

²¹ The purpose of a CAPTCHA test is to eliminate so-called hackers and spammers from using auto-filling software programs to simulate respondents' in online surveys and other applications.

include in the survey a broad assortment of carbonated soft drink brands. By casting a wide net for the types of household and food products and soft drink brands, I will hide the research objectives from the respondents. In addition, my price premium survey will include a variety of both challenged and non-challenged claims to prevent respondents from unduly focusing on the challenged claims. I will use my cognitive interviews to test whether I succeeded in my efforts to disguise the survey questions and its objectives.

118. **Randomizations in the Survey to Control for Potential Order Effects.** As in my other surveys conducted in the litigation context, I will make extensive use of randomizations in the survey questionnaire to control for the potential impact on survey responses that could result from the order in which respondents are asked to answer certain questions or exposed to stimuli in my survey. The randomizations will include, but are not limited to, the following: randomizing response lists or the order of response options; randomizing the order of the presentation of any visual stimuli; and in the survey where respondents make product choices (i.e., the conjoint survey), randomizing the order in which respondents will be shown the attributes such that the brand attribute will be the top-listed feature and price the bottom-listed features, while the order of the other attributes will be randomized.

119. **Cognitive Interviews.** I will conduct at least ten cognitive interviews with consumers who are members of the study target population. The interviews will take approximately 40 minutes on average. I will conduct these conduct interviews using the fully developed conjoint survey questionnaire prior to pretesting the survey.

120. The cognitive interviewing methodology will provide me an opportunity to determine whether respondents interpreted my survey questionnaires in the manner that I intended and to identify areas for improving the clarity of my survey questions. For a conjoint survey, the

cognitive interviews are essential for identifying whether the choice tasks sufficiently mimic market reality and provide the appropriate product attributes, price levels, distractor attributes, and shopping context.

121. In the cognitive interviews, I will show real consumers the actual price premium survey questions on their computer screens and will ask for their feedback on each survey question as they take the survey. I will speak directly with each respondent on the telephone while the respondent views my computer screen over the web from their home. Respondents will share with me their thought process as they answer each survey question verbally (telling me which response to enter into the survey.)

122. My cognitive interview respondents will help me confirm that my conjoint survey provided a realistic replication of the marketplace for carbonated soft drink products and that my selection of attributes took into account the factors that were important to consumers when making product choices. Respondents will also provide me insight on whether the price range in the conjoint survey is sensible and consistent with their purchasing experience. Respondents will let me know if there are any important brands that I might have failed to include in the survey. I will also use the cognitive interviews to determine whether the respondents perceived that my survey has an agenda related to the litigation or to any current events or controversies in the news. My objective is to provide respondents an unbiased, neutral survey that will not be perceived by the respondents to have been designed for the purposes of litigation or to favor any particular interests.

123. **Conjoint Survey Best Practices.** I will follow best practices in designing the conjoint survey by providing the respondents (i) the appropriate decision-making context for answering the choice questions, (ii) instructions for how to compare the carbonated soft drink product profiles and answer the choice questions, and (iii) clear descriptions of the attributes

themselves. The conjoint survey design for this study, in my expert opinion, will be relatively simple from the perspective of respondents and will be cognitively easy for respondents compared to standard market research conjoint surveys. The basis for this opinion is as follows:

- The survey sample will be restricted to actual recent purchasers of the Defendants' Products. Therefore, I will interview consumers that have recently experienced making purchases of Products. Therefore, the conjoint survey will have personal relevance to the respondents.
- I have already researched the product features that are important and relevant to carbonated soft drink purchasers through my cognitive interviews and market research that I conducted in designing my consumer survey (about which I reported earlier in this report).
- Typical conjoint surveys can have up to eight attributes for the respondents to consider. I expect to design the survey to limit the cognitive burden on the respondents by showing fewer than eight attributes to the respondents. While my final design could be fine-tuned as the result of additional cognitive interviews and discovery, the conjoint survey as currently designed includes seven attributes, shown below. The attribute for the "Source of Vanilla Flavor" will make possible the isolation of any economic value associated with the source of vanilla flavor (e.g., vanilla extract versus artificial flavors).
 1. Brand
 2. Diet/Regular
 3. Flavor
 4. Calories/Related Info
 5. Label Claims
 6. Source of Vanilla Flavor
 7. Price
- To reduce cognitive burden, I will show only one to three label claims on each product (in addition to brand, flavor, and other information).
- To reduce cognitive burden, all the products shown respondents will have the same product size (e.g., a 2-liter bottle).
- Some conjoint surveys will present four product profiles for each choice task. My survey will present only three, which will reduce the cognitive burden on the survey respondent and generally will make it easier for the respondent to process the presented product choices.
- Conjoint surveys often have 12 to 20 choice tasks for the respondent to consider and decide which products they prefer. My survey will be on the low end of the usual range

with only 12 choice tasks for each respondent. The result will be more reliable data since there will be less potential for respondents to experience fatigue in answering the choice questions.

- Respondents will be provided a “None of these” option in the conjoint survey; therefore, respondents will not be forced to select one of the three product profiles. Respondents not having a preference for a product presented to them in the conjoint survey will have the option to select “None of these.”

124. These steps are generally accepted techniques in the field to prevent excessive cognitive burden on respondents and produce reliable responses from conjoint surveys.

125. **Incorporating Supply-Side Factors in the Conjoint Survey.** In designing the conjoint survey, I will consider and include numerous real-world, supply-side factors for the Products at issue, so that my survey will accurately measure the price premium attributable to the challenged claims, *i.e.*, the intersection between demand-side factors (willingness to pay) and supply-side factors (willingness to sell), to determine the actual effect of the challenged claim on market price. The actual real-world pricing of the products sold during the class period reflects the actual number of units sold, the costs of manufacturing, the costs for distribution, advertising, and marketing, and margin, among other supply-side factors. I will take into account the fact that this product is sold in a competitive market, through a variety of retail outlets. Further, I will take into account the fact that the quantity supplied of Defendants’ and competitors’ products is a known fact and is fixed as a matter of history.

126. **Conjoint Survey Interview Sample Size.** For my conjoint survey, I expect to collect at least 600 interviews with recent purchasers of Defendants’ Products. My sample plan exceeds industry guidelines recommending at least 150 respondents for a given segment participating in the conjoint survey and 300 conjoint interviews in total for robust quantitative

research, as explained by Bryan Orme from Sawtooth Software.²²

127. **Survey Data Collection.** I intend to retain Dynata (formerly Research Now Survey Sampling Inc.) to provide me with the online survey vendor services for programming the questionnaires, providing the respondent sample, and for collecting the survey data. Based on my experience in the industry, the Dynata online panel sample is regarded as among the most credible and reliable non-probability online panel having the necessary scale for this study, which involves collecting a substantial number of interviews on a relatively low-incidence consumer segment. Dynata will program my survey questionnaire into an online survey under my active supervision. The actual survey data will be collected using survey software and servers operated by Dynata.

128. Dynata and its predecessor companies have refined their quality control procedures over the past two decades to ensure the reliability and integrity of the survey data it collects from its respondents. For example, Dynata uses digital fingerprinting that creates a “fingerprint” for each respondent based on computer characteristics (like IP addresses). Fingerprinting helps to identify respondents who attempt to take the same survey more than once. Fingerprinting is also useful for excluding respondents’ who, on other surveys, showed a pattern of inattentiveness in surveys. Dynata will also implement the matching routine under my direction to assure that age and gender information that I collect from the respondents corresponds to the information that Dynata has on file from previous surveys: respondents for whom the data do not match will not be permitted to complete the survey. Dynata will also provide me date/time stamp information on survey taking at the respondent level so that I can conduct sensitivity tests based on the length of interview, enabling me to make decisions about removing interviews from the analysis if their length of interview indicates that their survey responses are not reliable.

²² Bryan Orme, 2010, “Sample Size Issues in Conjoint Analysis.”
<https://www.sawtoothsoftware.com/download/techpap/samplesz.pdf>.

129. **Blinded Research Design.** As a precaution against the potential risk for bias, the research objectives and study sponsor will not be disclosed to the survey respondents or to the survey firm that is recruiting the survey respondents for my conjoint survey.

130. **Online Data Collection.** All the survey interviewing will be conducted via self-administration of the survey. Because there will not be an actual personal interviewer administering the survey, my survey will avoid the potential risk of “self-presentation” or “social desirability” bias that can occur in surveys administered by actual human interviewers. Moreover, the absence of an interviewer also helps to avoid the potential risk of so-called “demand artifacts” that can occur when respondents answer the survey questions in ways that they perceive the interviewer would favor.

131. **Pretest Survey.** After the completion of the cognitive interviews but before I conduct the main data collection, I will conduct a pretest of the conjoint survey in order to test the survey with a representative sample of members of the study target population. The pretest survey is, in a sense, a dress rehearsal for the data collection. The pretest will be conducted online using the same sampling and data collection procedures that I will subsequently employ for the full data collection. I will conduct the pretest for the following purposes: (i) for quality control and quality assurance testing of the survey instrument, (ii) to validate that the survey questionnaire was programmed correctly to my specifications, (iii) to identify any survey questions that were unclear to respondents, and (iv) to analyze the data to identify any problems, such as unexpected missing data.

132. **Price Premium Survey Analysis.** To calculate any price premium solely attributable to the challenged claim, I will conduct the analysis of the choice-based conjoint survey data using Sawtooth Software Lighthouse Studio. Sawtooth Software is the industry leader in

market research for conjoint data collection and analysis software.

133. To calculate the price premium statistics, I will conduct an analysis called a “market simulation.” Market simulations using conjoint data are a staple in marketing research science. Market simulations are a common deliverable at the conclusion of a choice-based conjoint study. Sawtooth’s authors explain that:

the simulator is used to convert raw conjoint (partworth utility) data into something much more managerially useful: simulated market choices. Products can be introduced within a simulated market scenario and the simulator reports the percentage of respondents projected to choose each product. A market simulator lets an analyst or manager conduct what-if games to investigate issues such as new product design, product positioning, and pricing strategy. Market simulators are commercially available or can be constructed using spreadsheet programs.²³

134. In short, a market simulation tool is a “choice laboratory” for testing multiple real-world possibilities (e.g., the price premium paid estimates for products with and without each of the challenged claims) and supports the estimation of preferences across consumer segments.

135. With respect to the analysis tools needed to analyze the survey data, the raw data created by a conjoint survey is fundamentally different from a non-conjoint survey data obtained through a direct-questioning methodology that is typical in a marketing or public opinion survey. In a conventional survey data set, survey answers such as “yes” and “no” are coded into “1” and “2,” making possible a straightforward count of survey responses. No “modeling” of the data is required to draw inferences. In contrast, a conjoint study leads to a set of utilities or part-worths that quantify the value respondents’ place on each level of each attribute (*e.g.*, for each price level for the price attribute). To draw inferences from the utility data, conjoint analysis leverages

²³ Bryan Orme, Sawtooth Software, on “Market Simulators for Conjoint Analysis.” <https://www.sawtoothsoftware.com/download/techpap/introsim.pdf>. Also, Joel Huber et al., 2006. “Dealing with Product Similarity in Conjoint Simulations.”

Bayesian statistics (technically, Hierarchical Bayesian modeling) to provide individual respondent-level models. The price premium survey results that will be presented in my expert report are calculated using part-worth utilities calculated in the Sawtooth Lighthouse Studio employing Hierarchical Bayesian models. The Sawtooth market simulation for calculating the price premium will be based on a randomized first choice or share of preference method.

136. Market simulation will provide a statistically robust estimate of the price premium that reasonable consumers paid as a result of each of the challenged claims. The price premium is the fraction of the total price paid by consumers for Defendants' Products sold in the class period that is attributable to a challenged claim. For instance, a price premium of 10% for a challenged claim on a Product sold for \$3.00 is the same as stating that \$0.30 of the Product price is attributable to the premium paid for the challenged claim. In this example, the purchaser would need to be presented a 10% discount for the Product without the challenged claim to have the same market value as the Product with the challenged claim.

137. In calculating the price premium statistics, I will select price points for the market simulations that correspond to the actual prices paid by consumers for the Defendants' Products during the class period using IRI or other sales data obtained during the discovery process. By using the actual prices paid by consumers, I will incorporate into my market simulation both demand- and supply-side factors that determine actual, real-world transaction prices. I will use the actual prices paid by class for each of the litigated Defendants' Products.

2. My price premium statistics will be reported by me in both absolute dollars and cents and by a percentage of the price paid by class members.

138. I will also conduct a number of verifications to ensure the quality of the data obtained including, for example, statistical sensitivity tests to determine whether the price

premium statistics are significantly influenced by the length of time that respondents spent on the survey.

139. My price premium statistics will be accurately generalizable to all of Defendants' Products sold during the proposed class period in California and New York.

140. To enable replication of the prime premium statistics, I will attach to my expert report all of the necessary data that are required to replicate my analysis.

CONCLUSION FOR THE PRICE PREMIUM SURVEY


141. I have drawn on my 18 years in designing and conducting online surveys and my 25 years of experience in survey research to design the conjoint survey described above, which will generate a reliable estimate of the market price premium. I have identified the appropriate survey sample that constitutes a representative sample of consumers whose responses are generalizable to the proposed classes. When requested by Plaintiffs' counsel, I will finalize and execute the survey. As is my practice, I will employ rigorous protocol for verifying and testing the survey questionnaire using cognitive interviews and pretesting. I will carry out a series of quality control and quality assurance measures to confirm that the respondents understood the survey questions. I will process, analyze, and report on my conjoint survey to measure the price premium, if any, attributable to the challenged claims.

142. In my expert opinion, my price premium survey will provide a reliable and accurate measurement of the extent to which there is a marketplace price premium attributable to the challenged claim for the proposed class. My price premium survey will be able to show without ambiguity whether consumers paid a price premium for Defendants' Products because of the challenged "MADE WITH AGED VANILLA" claim, and, if so, a quantitative measure of the

economic loss experienced by class members.

143. The facts and data that I considered in this report are cited herein and listed in my attached list of considered materials (Attachment B). I reserve the right to modify my opinions if I am provided additional information, and to supplement them, if necessary, to respond to criticisms or objections from the opposing party.

Executed in E. Palo Alto, California on February 8, 2021.



J. MICHAEL DENNIS, PH. D

February 8, 2021

DATE

List of Attachments

- A Curriculum Vitae of J. Michael Dennis, Ph.D.
- B List of Considered Materials
- C Cognitive Interviews Questionnaire
- D Survey Questionnaire
- E Online Screen Captures for the Questionnaire
- F ELECTRONIC SUBMISSION: Raw Survey Data for All Respondents Starting the Survey
- G ELECTRONIC SUBMISSION: Codebook for the Raw Survey Data
- H ELECTRONIC SUBMISSION: Tables of Findings
- I Misc. Online Product Research

EXHIBIT A

J. MICHAEL DENNIS

Phone: (650) 288-1930
JMDSTAT@gmail.com

274 Redwood Shores Parkway, #529
Redwood City, CA 94065

Education

University of Texas, Austin	Government	B.A.	1984
University of Texas, Austin	Government	M.A.	1986
University of Chicago	Political Science	Ph.D.	1992

Employment

2015-Present	Senior Vice President, NORC
2014-Present	President and Owner, JMDSTAT Consulting Inc.
2012-2014	Managing Director, GfK Custom Research LLC (GfK acquired Knowledge Networks in January 2012)
2009-2011	Executive Vice President, Knowledge Networks
2007- 2008	Senior Vice President, Knowledge Networks, Inc
2001-2006	Vice President and Managing Director, Knowledge Networks, Inc
2000-2001	Vice President of Operations and Survey Research, Knowledge Networks, Inc.
1999-2000	Senior Scientist, Abt Associates Inc.
1998-1999	Senior Survey Director, Abt Associates Inc.
1992-1998	Survey Director, Abt Associates Inc
1989-1992	Research Assistant, Political Science Department, University of Chicago

Notable Past Projects

- 2020 Facebook Election Research Project, 2020-Present, NORC Director. Funded by Facebook Technologies, NORC's study director a national study examining the impact of social media on U.S. politics, democratic institutions, and elections.
- America in One Room (AIR), 2019, NORC Director. Funded by Helena Project and conducted under the supervision of Professors James Fishkin and Larry Diamond from the Center for Deliberative Democracy at Stanford University.
- Time-Sharing Experiments for the Social Sciences (TESS), 2016-2020, Co-Investigator, Funded by the National Science Foundation (Award No. 1628057). NORC's study director for approximately 140 hundred social science experiments funded by the TESS program.
- Demonstration of a Feasibility of Improving Scientific Literacy and Lifelong Learning through a Just-in-Time Dissemination Process, 2016-Present, Co-Investigator, Funded by National Aeronautics and Space Administration (NASA), (Grant No. F041712). NORC's director of the five-year survey project funded by NASA in collaboration with researchers from the Institute for Social Research, University of Michigan.
- GenForward Panel, 2016-Present. NORC Director, funded by John D. & Catherine T. MacArthur Foundation. NORC's study director for the University of Chicago polling panel of young adults in collaboration with the Black Youth Project and the Associated Press-NORC Center for Public Affairs Research.
- Connecting Health and Technology, 2013-2014, GfK Director, Funded by the American Legacy Foundation. GfK's Study Director responsible for the survey design and management of a custom panel study of 10,000 U.S. teens and young adults measuring the effectiveness of the Legacy "Truth" smoking prevention media campaign.
- Google Screenwise Research Panel 2011-2014, Director. Knowledge Networks' and later GfK's study director responsible for the design and implementation of a new custom panel of broadband households measuring how consumers use the internet.
- Time-Sharing Experiments for the Social Sciences (TESS), 2012-2016, Co-Investigator, Funded by the National Science Foundation (Award No. 1227179). Knowledge Networks/GfK's study director for more than two hundred social science experiments funded by the TESS program.

- American National Elections Studies 2007-2009 Panel Study, Knowledge Networks Principal Investigator, Funded by the National Science Foundation. The Knowledge Networks study director responsible for sampling, data collection methodology, and project management for a longitudinal study of approximately 2,500 households during the historic 2008 Presidential election.
- National Annenberg Election Survey 2007-2009, Knowledge Networks Director, Annenberg Public Policy Center, University of Pennsylvania. The Knowledge Networks study director responsible for project management for large-scale tracking study (20K interviews per wave) of the U.S. electorate during the historic 2008 Presidential election.
- National Immunization Survey, Abt Associates Data Collection Director, 1997-2000, Funded by the U.S. Centers for Disease Control and Prevention. Responsible for the data collection for the U.S. Federal government's largest random digit dialing telephone survey with approximately 1M households contacted each year.
- Project Network (First Followup), Abt Associates Project Director, Funded by the U.S. Social Security Administration. Led the project management team for this in-person field study.
- Estimation of the Number of Hard Core Drug Users in the U.S., Office of National Drug Control Policy
- Access to Kidney Transplantation, Agency for Health Care Policy and Research. Led the survey project management team for this in-person field study testing an experimental method for estimating hard core drug use.
- A Case Control Study of Stomach Cancer in Poland and Polish Americans, National Cancer Institute
- The Prevalence of Alcohol and Other Drug Abuse and Dependence in Short Term General Hospitals and the Impact of Abuse and Dependence on Hospital Utilization, Charges and Costs, National Institute of Alcohol Abuse and Alcoholism

Expert Witness in Litigation in Last Four Years (Testifying at Deposition or Court)

1. August 29, 2017. Expert Deposition. Jones et al. v. Nutiva. Case No. 3-16-cv-00711-HSG. United States District Court for the Northern District of California.
2. October 17, 2017. Expert Deposition. Brenner v The Proctor & Gamble Co. Case No.: 8:16-1093-JLS-JCG. United States District Court for the Central District of California.
3. October 23, 2017. Expert Deposition. Dean et al v Colgate-Palmolive Co. Case No. 5:15-CV-00107. United States District Court for the Central District of California.
4. November 13, 2017. Expert Deposition. Joann Martinelli et al v. Johnson & Johnson and McNeil Nutritionals, LLC. Case No. 2:15-cv-01733-JAM-DAD. United States District Court, Eastern District of California.
5. November 21, 2017. Expert Deposition. Strumlauf et al v. Starbucks Corporation. Case No. 4:16-cv-1306-YGR. United States District Court, Northern District of California.
6. December 11, 2017. Expert Deposition. IN RE: AMLA LITIGATION. Consolidated Case No. 1:16-cv-06593 (JSR). United States District Court, Southern District Of New York.
7. January 19, 2018. Expert Deposition. Williams-Sonoma Song-Beverly Act Cases. Superior Court of the State of California, County of San Francisco.
8. April 13, 2018. Expert Deposition. Fitzhenry-Russell, et al. v. Dr. Pepper Snapple Group, Inc., Dr Pepper/Seven Up, Inc., and Does 1-50, Case Nos. 5:17-cv-00564-NC (lead); 5:17-02341-NC (consolidated). United States District Court, Northern District of California.
9. June 22, 2018. Expert Deposition. Theodore Broomfield, et al. v. Craft Brew Alliance, Inc., et al. Case No. 5:17-cv-01027-BLF. United States District Court, Northern District of California, San Jose Division.
10. August 21, 2018. Expert Deposition. Anne De Lacour et al. v. Colgate-Palmolive Co., and Tom's of Maine Inc. United States District Court of New York. 16 Civ. 8364 (RA) (AJP).
11. September 5, 2018. Expert Deposition. Suzanna Bowling et al. v. Johnson & Johnson and McNeil Nutritionals, LLC. U.S. District Court, Southern District of New York. Case No. 1:17-cv-03982.
12. September 10, 2018. Expert Deposition. Dzielak et al. v. Whirlpool. U.S. District Court, District of New Jersey. Civil Action No. 2:12-cv-00089-KM-JBC. .
13. October 26, 2018. Expert Deposition. Ryan Porter and Haarin Kwon v. NBTY, Inc., United States Nutrition, Inc., Healthwatchers (DE), Inc., et al. U.S. District Court, Northern District of Illinois. Civil Action No. 15-cv-11459.

14. October 30, 2018. Expert Deposition. Browning and Basile et al. v. Unilever United States, Inc. U.S. District Court, Central California. Case No. 8:16-CV-2210-AG-KES.
15. February 14, 2019. Expert Deposition. Erin Allen et al. v. Conagra Foods Inc. U.S. District Court, Northern District of California, Case No. 3:13-CV-01279-VC.
16. June 21, 2019. Expert Deposition. Joseph Gregorio, et al. v The Clorox Company. U.S. District Court, Northern District of California. Case No. 4:17-cv-03824-PJH.
17. October 3, 2019. Expert Deposition. Patrick McMorrow et al. v. Mondelez International, Inc. U.S. District Court, Southern District of California. Case No. 3:17-cv-2327-BAS-JLB.
18. November 9, 2019. Expert Deposition. Buckeye Tree Lodge and Sequoia Village Inn, LLC, et al. v. Expedia, Inc. U.S. District Court, Northern District of California. Case No. 16:cv-04721-VC.
19. December 17, 2019. Expert Deposition. Camille Cabrera v. Bayer Healthcare LLC and Bayer Corp., U.S. District Court for the Central District of California (Case No. 2:17-cv-08525).
20. January 16, 2020. Expert Deposition. In Re: Santa Fe Natural Tobacco Company Marketing & Sales Practices and Products Liability Litigation. U.S. District Court for the District of New Mexico (Case No. 1:16-md-02695-JB-LF).
21. April 6, 2020. Expert Deposition. Pardini v. Unilever. U.S. District Court for the Northern District of California (Case No. Case No. CV13-1675 SC).
22. May 27, 2020. Expert Deposition. Patrick McMorrow et al. v. Mondelez International, Inc. U.S. District Court, Southern District of California. Case No. 3:17-cv-2327-BAS-JLB.
23. December 30, 2020. Expert Deposition. Michael Maeda et al. v. Kennedy Endeavors, Inc. U.S. District Court, District of Hawaii. Case No. 1:18-CV-00459-JAO-WRP.
24. January 19, 2021. Expert Deposition. Shelly Benson et al. v. Newell Brands, Inc. and NUK USA LLC. U.S. District Court, Northern District of Illinois. Civil Action No. 19-cv-06836.

Dissertation

“The Politics of Kidney Transplantation,” Department of Political Science, University of Chicago, June 1992. Chair: Professor Jon Elster. Published at <https://sites.google.com/site/jmichaeldennis/home>.

Selected Publications

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Selected Papers

Dennis, J. Michael, John Dombrowski, Kathleen Hall Jamieson, Josh Pasek and Kenneth Winneg. Disentangling Mode Effects and Mode Differences in Recruitment: Randomizing Survey Mode at the Margins and Testing Discontinuities. Presented at the 2019 Annual Meeting of the American Association for Public Opinion Research.

Bilgen, Ipek, J. Michael Dennis, Nada Ganesh, Edward Mulrow, Vicki Pineau, Mark Watts and Michael Yang. Estimation Methods for Combining Probability and Nonprobability Samples. Presented at the 2019 Annual Meeting of the American Association for Public Opinion Research.

Dennis, J. Michael, Stephanie Jwo, Rosalind Koff, Stuart Michaels, Vicki Pineau and Becky Reimer. Comparing Two RDS Approaches to Extend the Reach of a Probability-Based Panel. Presented at the 2019 Annual Meeting of the American Association for Public Opinion Research..

J. Michael Dennis. Panel-based Probability Alternatives for Sampling Racial and Ethnic Minorities. Presented at the 2018 Annual Meeting of the American Association for Public Opinion Research.

Ipek Bilgen, J. Michael Dennis, and Nada Ganesh. Examination of Nonresponse Follow-up (NRFU) Impact on AmeriSpeak Panel Data Quality and Study Estimates. Presented at the 2018 Annual Meeting of the American Association for Public Opinion Research.

David Sterrett, Dan Malato, Jennifer Benz, Ipek Bilgen, J. Michael Dennis, and Vicki Pineau. Exploring the Methodological Tradeoffs of Mixed-Mode Surveys with an Experimental Design. Presented at the 2018 Annual Meeting of the American Association for Public Opinion Research.

Ipek Bilgen, J. Michael Dennis, and Tom Smith. Comparing the Probability-Based AmeriSpeak Panel and the In-Person 2016 General Social Survey: Mode, Device, Item Wording Experiments. Presented at the 2018 Annual Meeting of the American Association for Public Opinion Research.

Nadarajasundaram Ganesh, Vicki Pineau, J. Michael Dennis. 2017. Managing Respondent Burden for a Household Panel using Permanent Random Number Sampling. Presented at the 2017 Annual Meeting of the American Association for Public Opinion Research.

Pineau, Vicki, J. Michael Dennis, Stuart Michaels, Sherry Emery, Nadarajasundaram Ganesh. 2017. Surveying Rare or Hidden Populations Using a Probability-based Household Panel. Presented at the 2017 Annual Meeting of the American Association for Public Opinion Research.

Pineau, Vicki, Paul J. Lavrakas, and J. Michael Dennis. 2017. Deploying a Total Survey Error (TSE) and Total Survey Quality (TSQ) Assessment of the AmeriSpeak® Panel. Presented at the 2017 Annual Meeting of the American Association for Public Opinion Research.

Reimer, Becky, Jennifer Benz, Trevor Tompson, Liz Kantor, Rosalind Koff, J. Michael Dennis, Emily Swanson, David Pace, 2017. Testing A New Methodology for Exit Polling: A National, Panel-based Experiment. Presented at the 2017 Annual Meeting of the American Association for Public Opinion Research.

Malato, Dan, Jennifer Benz, Trevor Tompson, J. Michael Dennis, Vicki Pineau, Nadarajasundaram Ganesh. 2017. Impact of Mixed-Mode Recruitment and Data Collection on Sample Representativeness and Survey Estimates for a Probability-based Household Panel. Presented at the 2017 Annual Meeting of the American Association for Public Opinion Research.

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Dennis, J. Michael, Kathleen Connolley, and Stephanie Jwo. “Online Survey Sampling Solutions for Studies of LGB.” Presented at the 2013 Chicago Annual Workshop on Biomeasures Collection in Population-Based Health and Aging Research hosted by the Chicago Core on Biomeasures in Population-Based Health and Aging Research (CCBAR), October 17, 2013.

Dennis, J. Michael, Curtiss Cobb III. “How Far Have We Come? The Lingering Digital Divide and Its Impact on the Representativeness of Internet Surveys.” Presented at the 2013 Annual Meeting of the American Association for Public Opinion Research.

Dennis, J. Michael, Curtiss Cobb III, Michael Lawrence, and Jordon Peugh. “The Prevalence and Impact of Self-Selection Bias and Panel Conditioning on Smoker Studies Using Established Internet Panels.” Presented at the 2013 Annual Meeting of the American Association for Public Opinion Research.

Pasek, Josh, J. Michael Dennis, and Curtiss Cobb III. “Consumer File Ancillary Data and Nonresponse Adjustment: Assessing the Consistency of Estimates Across Weighting Strategies.” Presented at the 2013 Annual Meeting of the American Association for Public Opinion Research. Submitted for publication.

Pasek, Josh. Seung Mo Jang, Curtiss Cobb, Charles DiSogra and J. Michael Dennis. “Can Microtargeting Improve Survey Sampling? An Assessment of Accuracy and Bias in Consumer File Marketing Data.” Presented at the 2012 Annual Meeting of the American Political Science Association.

Disogra, Charles. J. Michael Dennis and Mansour Fahimi. 2012 “Using Ancillary Information in National ABS Samples to Recruit Hard-to-Reach Young Adults and Hispanics.” Presented at the 2012 Hard to Reach Conference sponsored by the American Statistical Association.

Lavrakas, Paul J. J. Michael Dennis, Jordan Peugh, Jeffrey Shand-Lubbers, Elissa Lee, Owen Charlebois and Mike Murakami. 2012 "An Experimental Investigation of the Effects of Noncontingent and Contingent Incentives in Recruiting a Long-Term Panel: Testing a Leverage Salience Theory Hypothesis." Presented at the 2012 Midwest Association for Public Opinion Research.

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DiSogra, Charles. Curtiss Cobb, Elisa Chan, and J. Michael Dennis. 2012 "Using Probability-Based Online Samples to Calibrate Non-Probability Opt-in Samples." Presented at the 2012 Annual Conference of the American Association for Public Opinion Research.

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Zukin, Cliff, Jessica Godofsky, Carl Van Horn, Wendy Mansfield, and J. M. Dennis. 2011. "Can a Non-Probability Sample Ever be Useful for Representing a Population? Comparing Probability and Non-Probability Samples of Recent College Graduates." Presented at the 2011 Annual Conference of the American Association for Public Opinion Research. Available at <http://www.knowledgenetworks.com/ganp/docs/aapor2011/aapor11-can-a-non-probability-sample.pdf>

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Dennis, J. Michael, "Using Ancillary Data Available for Address-Based Sampling to Measure Self-Selection Bias" Paper presented to the International Workshop on Using Multi-level Data from Sample Frames, Auxiliary Databases, Paradata and Related Sources to Detect and Adjust for Nonresponse Bias in Surveys, Chicago, June, 2011.

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Dennis, J. Michael, and Trevor Tompson. 2009. "Web Panel Studies of the 2008 Election: New Opportunities for Causal Analysis of Dynamic Change in the Electorate." Presented at the 2009 Annual Conference of the American Association for Public Opinion Research. Available at <http://www.knowledgenetworks.com/ganp/reviewer-info.html>.

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J. Michael Dennis, Rick Li and Joe Hadfield. 2007. "Results of a Within-Panel Survey Experiment of Data Collection Mode Effects Using the General Social Survey's National Priority Battery." Presented at the 2007 Annual Conference of the American Association for Public Opinion Research.

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J. Michael Dennis, Cindy Chatt, Rick Li, Alicia Motta-Stanko, Paul Pulliam. 2005. [“Data Collection Mode Effects Controlling for Sample Origins in a Panel Survey: Telephone versus Internet.”](http://www.knowledgenetworks.com/ganp/rtimode.html) Available at <http://www.knowledgenetworks.com/ganp/rtimode.html>.

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J. Michael Dennis. 2003. [“Panel Attrition Impact: A Comparison of Responses to Attitudinal and Knowledge Questions about HIV Between Follow-up and Cross-Sectional Samples.”](http://www.knowledgenetworks.com/ganp/docs/HIV-Study-Panel-Attrition-Impact-Research-Note-2003.pdf) Available at <http://www.knowledgenetworks.com/ganp/docs/HIV-Study-Panel-Attrition-Impact-Research-Note-2003.pdf>

J. Michael Dennis, Rick Li, J.R. DeShazo and Trudy Ann Cameron. 2003. “Correcting for Sample Bias in Internet Panel Surveys based on RDD Sampling.” Presented at the Joint Statistical Meetings, August 2003

Dennis, J. Michael, Rick Li. 2003. “Effects of Panel Attrition on Survey Estimates.” Presented at the 2003 Annual Conference for the American Association for Public Opinion Research.

Selected Workshops, Expert Panels, and Seminars

Workshop Participant. Mapping the Global Online Probability based Panel Landscape. RISCAPE Workshop. Amsterdam, Netherlands. December 11-12, 2019.

Member, Expert Panel. New Direction for the National Household Travel Survey. Sponsored by the Federal Highway Administration. 2018-Present.

Featured Speaker. AARP “Think In” on Surveys of Asian Americans and Pacific Islanders. July 23-24, 2018. Washington, DC.

Expert Panel Participant, National Survey of Family Growth, U.S. Centers for Disease Control and Prevention, April 30, 2018 – May 1, 2018.

Panel Participant and Featured Speaker. “Workshop: Harnessing Technology to Reduce Attrition in Panel Surveys.” Inter-American Development Bank. Washington DC, October 2, 2017.

Featured Speaker. Briefing Congress on the Legal Services Corporation New Report on *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*. Russell Senate Building, Washington DC, June 14, 2017.

Panel Participant in an Invited Panel Session entitled “Better, Faster, Smarter – Maintaining Research Quality in a World of Intense Budget Pressure.” Annual Meeting of the Southern Association for Public Opinion. October 10, 2013.

“The NCRM Network of Methodological Innovation Web surveys for the general population: How, why and when?” Workshop hosted by the University of Essex, Colchester, UK. Presented the paper “Recommendations for Establishing a National Online Panel in the UK.” June 6-7, 2013.

“The Data Collection of the Future Has Already Started.” Seminar hosted by Willem Saris, RECSM, Universitat Pompeu Fabra in Barcelona. Presented the paper “Best Practices for Population-Based Online Surveys: Review of U.S. Methods Research.” July 2011.

“An International Workshop on Using Multi-level Data from Sample Frames, Auxiliary Databases, Paradata and Related Sources to Detect and Adjust for Nonresponse Bias in Surveys.” Sponsored by the National Science Foundation and hosted by NORC in Chicago. June 2011.

“Innovative Survey Methods Workshop.” Sponsored by the U.S. Department of Homeland Security and the Institute for Homeland Security Solutions. December 2009.

“Sample Representativeness: Implications for Administering and Testing Stated Preference Surveys.” Sponsored by EPA Cooperative Agreement CR83299-01 with the National Center for Environmental Economics, U.S. Environmental Protection Agency. Hosted by the Resources for the Future. October 2, 2006.

“Recurring Surveys: Issues and Opportunities.” Sponsored by the National Science Foundation. March 28-29, 2003.

Selected Guest Lecturer Assignments

George Washington University, University of California, Irvine, University of California, Berkeley, University of Michigan, University of Maryland, University of Pennsylvania, University of Southern California (USC), University of Texas, Austin, Stanford University.

Educational Honors

Century Fellowship, University of Chicago (1985-1988)

Phi Beta Kappa, University of Texas (1984-1985)

Honors in Government, University of Texas (1984)

Chapter President, Pi Sigma Alpha, University of Texas (1983-1984)

William Jennings Bryan Essay Winner, College of Liberal Arts, University of Texas (1983 and 1984)

Affiliations

American Association for Public Opinion Research (1992-), American Statistical Association, Member, AAPOR Online Task Force Report (2009-2010), Chairman, Presumed Consent Subcommittee, Ethics Committee, UNOS (1992-1995), Member of Ethics Committee, the United Network for Organ Sharing (1992-1995), Member of Region 7, the United Network for Organ Sharing (1992-1995), American Political Science Association (1985-1994)

EXHIBIT B

LIST OF CONSIDERED MATERIALS

A&W00000001 – 955 [with breaks in sequence]

A&W0000056

A&W0000060

AW CA Dollar Volume Sales 2015 – 2020

NY Sales Data – AEO

Document 35 Filed 04/10/20

Document 60 Filed 08/24/20

ALL COMPLETES - Report for Project - 031820-2 - A&W Root Beer Study.

Baker, R. P., Crawford, S., & Swinehart, J. (2004). Development and testing of web questionnaires. *Methods for testing and evaluating survey questionnaires*, 361-384.

Bradburn, N. M., Sudman, S., & Wansink, B. 2004. Asking Questions: A Practical Guide to Questionnaire Design. San Francisco: Jossey-Bass.

Cameron, Lisa and Michael Cragg and Daniel McFadden, “The Role of Conjoint Surveys in Reasonable Royalty Cases,” *Law360*, October 16, 2017.

Cunningham, Charles E., Ken Deal, and Yvonne Chen, December 2010, “Adaptive Choice-Based Conjoint Analysis: A New Patient-Centered Approach to the Assessment of Health

Di, Junrui, Ying Li, M Reuel Friedman, Susheel Reddy, Pamela J Surkan, Steven Shoptaw, and Michael Plankey. “Determining Survey Satisficing of Online Longitudinal Survey Data in the Multicenter AIDS Cohort Study: A Group-Based Trajectory Analysis.” JMIR Public Health Surveill. 2016 Jul-Dec; 2(2): e150.

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Green, Paul E. and V. Srinivasan, 1990. “Conjoint Analysis in Marketing Research: New Developments and Directions.” Journal of Marketing. Vol. 54, Issue 4, pages 3-19.

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Groves, Robert M., Floyd J. Fowler, Jr., Mick P. Couper, James M. Lepkowski, Eleanor Singer, and Roger Tourangeau. 2011. Survey Methodology (Second Edition). John Wiley & Sons.

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- Johnson, F. Reed and Mo Zhou. 2016. “Patient Preferences in Regulatory Benefit-Risk Assessments: A US Perspective.” Value in Health, Volume 19, Issue 6, September–October 2016, Pages 741-74
- Marsden, Peter V. and James D. Wright. 2010. Handbook of Survey Research (Second Edition). Emerald Group Publishing.
- Orme, Bryan. 2002. “Formulating Attributes and Levels in Conjoint Analysis.” Sawtooth Software Research Paper Series, 2002, P.1.
- Orme, Bryan. 2010. “Sample Size Issues in Conjoint Analysis.”
<https://www.sawtoothsoftware.com/download/techpap/samplesz.pdf>.
- Orme, Bryan. 2010. “Market Simulators for Conjoint Analysis.” Chapter 10 in Bryan Orme’s book Getting Started with Conjoint Analysis.
- Orme, Bryan K. 2014. Getting Started with Conjoint Analysis: Strategies for Product Design and Pricing Research. Third Edition. Sawtooth Software Inc
- Orme, Bryan K. and Keith Chrzan. 2017. Becoming an Expert in Conjoint Analysis. Sawtooth Software Inc.
- Park, Chan Su and V. Srinivasan. 1994. “A Survey-Based Method for Measuring and Understanding Brand Equity and Its Extendibility,” Journal of Marketing Research, 31 (May), 271–88.
- Pinnell, Jon and Pam Olson. 1996. “Using Choice Based Conjoint to Assess Brand Strength and Price Sensitivity.” Sawtooth Software Research Paper Series.
<http://www.sawtoothsoftware.com/support/technical-papers>.
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- Willis, Gordon B. and Anthony R. Artino, Jr. What Do Our Respondents Think We're Asking? Using Cognitive Interviewing to Improve Medical Education Surveys. J Grad Med Educ. 2013 Sep; 5(3): 353–356.

EXHIBIT C

ATTACHMENT C

SURVEY QUESTIONNAIRE FOR COGNITIVE INTERVIEWS

We'll be asking you about purchases you might have made at grocery stores, discount retailers, online stores, specialty stores, and other retailers where you might purchase various products.

Please take your time in answering the survey questions. **Please don't guess.**

Please select diet or regular **ROOT BEER brands**, if any, that you have purchased in the **past 12 months** for your personal use from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart).

Please do not count any purchases you might have made at a restaurant.

Please do not guess.

	Yes	No
A & W	[]	[]
Barq's	[]	[]
IBC Root Beer	[]	[]
Mug	[]	[]
A Different Brand	[]	[]

In the **past 12 months**, did you usually purchase regular or diet **ROOT BEER** from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart).

Please select one.

- ☐ Diet
- ☐ Regular

Now, we will ask you about your understanding of product labels on **ROOT BEER soft drinks**.

There are no right answers or wrong answers. We just want your honest opinions.
In answering our survey questions, please consider only the product labels we show you.

Next, we are going to show you the labels of a **ROOT BEER** product.

Please take your time and view each of the products like you are in a store considering a purchase.

You might need to wait a few seconds before being able to go to the next screen.







Based on your understanding of the product labels we showed you, what is your understanding of the statement “MADE WITH AGED VANILLA” on the A&W Root Beer product?

Please select the option that is closest to your understanding of the “MADE WITH AGED VANILLA” statement. Please click on the product to view again.

The vanilla flavor comes mainly from ...

- ☐ **Vanilla extract** from the vanilla plant
- ☐ **Artificial ingredient ethyl vanillin**, which does not come from the vanilla plant
- ☐ **Other artificial ingredient(s)**, which does not come from the vanilla plant
- ☐ None of these



Now, we have a few questions to get your feedback and opinions about **ROOT BEER** soft drinks.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

Suppose you go to the store where you usually purchase **ROOT BEER** soft drinks.

Also, please suppose you intend to buy a regular (non-diet) **ROOT BEER** product.

Suppose there are two types of A&W brand root beer available in the store.

We'll call them ROOT BEER **A** and ROOT BEER **B**.

You don't have time to go to a different store.

ROOT BEER A and **ROOT BEER B** are the same in these ways.

A&W Brand

Price

Regular Soft Drink (not diet)

No Caffeine

Number of Calories per 12-ounce serving

Number of 12-ounce cans

ROOT BEER A and ROOT BEER B also share the same packaging and labels.

The packaging has the same statements:

“MADE WITH AGED VANILLA”

“naturally and artificially flavored”

Please take your time to view the product on the next screen like you are shopping.

Later we will ask you to answer questions based on your understanding of this product package.



ROOT BEER A AND ROOT BEER B

The one difference between the two products is about the vanilla flavor in the statement “**MADE WITH AGED VANILLA**” on the package.

For one of the products, the vanilla flavor comes mainly from **vanilla extract** and for the other product the vanilla flavor comes mainly from **artificial ingredient ethyl vanillin**.

The only difference between the two products is the main source of the vanilla flavor.

The vanilla flavor for Root Beer **A** comes mainly from **vanilla extract**, which comes from the vanilla plant.

The vanilla flavor for Root Beer **B** comes mainly from **artificial ingredient ethyl vanillin**, which does not come from the vanilla plant.

If these were your only two options, which of these two **ROOT BEER** products would you purchase?

Product Features	ROOT BEER A	ROOT BEER B
Brand	A&W	A&W
Price	Same	Same
Statement on Package about Flavor Sources	Naturally and Artificially Flavored	Naturally and Artificially Flavored
Statement on Package about Vanilla Ingredient	MADE WITH AGED VANILLA	MADE WITH AGED VANILLA
Main Source of Vanilla Flavor	Vanilla extract	Artificial ingredient ethyl vanillin
Diet or Regular Soft Drink	Regular	Regular
Calories per serving	Same	Same
Number of 12-ounce cans	12	12
Please select one for purchase	<input type="radio"/>	<input type="radio"/>

☐ Don't Know

Thanks for your answer.

You said that you would purchase the Root Beer] product that has the vanilla flavor mainly from [artificial ingredient ethyl vanillin/ vanilla extract from vanilla plant].

Please confirm or not confirm that this is the Root Beer product you would purchase.

- ☐ Yes, I confirm
- ☐ No, I do not confirm

EXHIBIT D

ATTACHMENT D
SURVEY QUESTIONNAIRE

THIS SURVEY QUESTIONNAIRE WAS USED FOR THE PRETEST AND FOR THE MAIN STUDY DATA COLLECTION

SURVEY STRUCTURE

1. **Screening section** to determine study eligibility
2. **Randomly assign eligible respondents to either Consumer Perceptions** (Cream Soda/Root Beer) OR **Referendum Survey** (Cream Soda/Root Beer)

Survey Module Names:

- CP_CS. CONSUMER PERCEPTIONS – CREAM SODA
- CP_RB. CONSUMER PERCEPTIONS – ROOT BEER

- REF_CS. REFERENDUM -- CREAM SODA
- REF_RB. REFERENDUM – ROOT BEER

SCREENER SECTION

CAPTCHA TEST FIRST

Please enter the code exactly as it appears in the image below, and then click “Continue” to continue.

Please note that the code is case sensitive.

[Captcha Box]

We'll be asking you about purchases you might have made at grocery stores, discount retailers, online stores, specialty stores, and other retailers where you might purchase various products.

Please take your time in answering the survey questions. **Please don't guess.**

[ASK ALL]

[PROMPT]P_STATE

Let's start with an easy question. Where do you live?

[Dropdown of U.S. States, including Washington DC; include option of “Not in USA” at the bottom of the drop-down list]

TERMINATE IF ‘NOT IN THE USA’

[ASK ALL]
D_GENDER
[SP]

What is your gender?

Male 1
Female 2

NO TERMINATIONS

D_AGE

What is your age?

Less than 18.....1 → TERMINATE
18-21 2
22-29..... 3
30-39..... 4
40-49..... 5
50-59..... 6
60-69..... 7
70 OR MORE.....8

TERMINATE IF UNDER AGE 18.

TERMINATE IF AGE AND GENDER INFORMATION DO NOT MATCH PANELIST PROFILE DATA

EDUC. What is the highest level of education that you have completed?

- Less than High School
- High School or GED
- Completed Technical or Trade School
- Some College
- College degree (4 year)
- Post-graduate course work or degree

NO TERMINATIONS

INSERT NEW SCREEN.

Thank you for telling us about yourself.

[MULTI-SELECT; RANDOMIZE RESPONSE LIST BUT KEEP THESE TWO OPTIONS TOGETHER: 'Alcoholic Beverages' / 'Carbonated soft drinks/beverages'; ANCHOR NONE OF THESE]

PAST_SURVEY

Have you taken any surveys **in the last 30 days** on any of these topics? Please select all that apply.

1. Sporting goods or outdoor gear
2. Advertisements on TV
3. Alcoholic beverages
4. Carbonated soft drinks/beverages → **TERMINATE**
5. Snack food products
6. Clothing
7. Websites you visit
8. Video games
9. Cosmetics
10. Shopping at retail stores
11. None of these

[TERMINATE IF R SELECTS CARBONATED SOFT DRINKS/BEVERAGES]

[SINGLE SELECT]

S1

How much of the grocery shopping do you do for your household? Please select one.

- ☐ All of it
- ☐ Most of it
- ☐ About half
- ☐ Not much of it
- ☐ None of it

[TERMINATE IF NONE OF IT]

[MULTI SELECT; RANDOMIZE ORDER OF RESPONSE OPTIONS.

S_PROD

Have you purchased, or not purchased, any of these food and nutritional products in the past year?

Some of these are not common food and nutritional products, so please select **YES** only if you are absolutely sure you purchased the product in the **past 12 months**. Select **NO** if you did not purchase the product in the **past 12 months** or if you are not sure.

[RANDOMIZE RESPONSE LIST]

	Yes	No
Protein powders	<input type="checkbox"/>	<input type="checkbox"/>
Multivitamins	<input type="checkbox"/>	<input type="checkbox"/>
Specialty vitamins (not multi-vitamins)	<input type="checkbox"/>	<input type="checkbox"/>
Energy bars/energy drinks	<input type="checkbox"/>	<input type="checkbox"/>
Weight loss/management bars or drinks	<input type="checkbox"/>	<input type="checkbox"/>

NO TERMINATIONS HERE

[MULT-SELECT]

S_ BEV.

Please indicate which, if any, of these **bottled or canned beverages** you purchased in stores for your personal use in the **past 12 months**?

“Stores” include retail stores like a convenience (including gas stations), grocery, or discount store (such as a Target or Walmart). Please do not count any purchases you might have made at a restaurant.

Please select all that apply.

	Yes	No
1. Beer or wine	[]	[]
2. Energy drinks or shots	[]	[]
3. Coffee and tea	[]	[]
4. Cocktail mixes	[]	[]
5. Juice and cider	[]	[]
6. Protein shakes	[]	[]
7. Carbonated soft drinks / Pop	[]	[]
8. Water	[]	[]

[PROCEED IF ‘CARBONATED SOFT DRINKS / POP’ IS SELECTED ‘YES’, OTHERWISE TERM]

[MULTI SELECT; KEEP RESPONSE OPTIONS IN ORDER SHOWN BELOW]

S2. Please indicate which, if any, of these beverages you have purchased for your personal use in the **past 12 months** from a retail store like a convenience, grocery, or discount store.

Please do not count any purchases you might have made at a restaurant.

Please select all that apply. Include both the diet and regular versions in your answer.

	Yes	No
1. 7 Up	[]	[]
2. Coca Cola	[]	[]
3. Cola (store brand)	[]	[]
4. Cream soda (any brand)	[]	[]
5. Dr. Pepper	[]	[]
6. Fanta	[]	[]
7. Flavor Rite → TERMINATE	[]	[]
8. Ginger Ale (any brand)	[]	[]
9. Mountain Dew	[]	[]
10. Orange sodas (any brand)	[]	[]
11. Pepsi	[]	[]
12. Root Beer (any brand)	[]	[]
13. Sprite	[]	[]

[TERMINATE IF 'FLAVOR RITE' IS SELECTED UNDER ALL CIRCUMSTANCES]

PROCEED IF (EITHER CREAM SODA OR ROOT BEER IS SELECTED) AND (FLAVOR RITE IS NOT SELECTED).

FOR CASES WHERE 'FLAVOR RITE' IS NOT SELECTED, CREATE DOV VAR

'DOV_PROD_TYPE' WHERE

1 = Selected 'Cream Soda' but not 'Root Beer'

2 = Selected 'Root Beer' but not 'Cream Soda'

3 = Selected both 'Root Beer' AND 'Cream Soda'

[ASK IF CREAM SODA SELECTED AT S2]

S2_CS. Please confirm or not confirm that you have purchased a **CREAM SODA** product in the past 12 months for your personal use from a retail store like a convenience, grocery, or discount store.

- Yes, I confirm purchasing this product in the past 12 months
- No, I do not confirm

[ASK IF ROOT BEER SELECTED AT S2]

S2_RB. Please confirm or not confirm that you have purchased a **ROOT BEER** product in the past 12 months for your personal use from a retail store like a convenience, grocery, or discount store.

- Yes, I confirm purchasing this product in the past 12 months
- No, I do not confirm

[ANCHOR 'A DIFFERENT BRAND'.
RANDOMIZE ORDER OF THE OTHER RESPONSE OPTIONS]

[ASK IF S2_CS = YES]

S_CS_BRANDS

Please note this question is about your personal purchases in the **past 12 months**.

Please select diet or regular **CREAM SODA brands**, if any, that you have purchased in the **past 12 months** for your personal use from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart). Please do not count any purchases you might have made at a restaurant.

Please do not guess.

	Yes	No
A & W	[]	[]
Dr. Brown's	[]	[]
IBC Cream Soda	[]	[]
Mug	[]	[]
Zevia	[]	[]
Dr. Pepper Cream Soda	[]	[]
A Different Brand	[]	[]

NO TERMINATIONS HERE

S_CS_TYPE. In the past 12 months, did you usually purchase regular or diet CREAM SODA from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart). Please select one.

- Diet
- Regular

CREATE DOV 'CS_DRINK_TYPE' WHERE 1 = DIET; 2 = REGULAR

**[ANCHOR A DIFFERENT BRAND; RANDOMIZE ORDER OF THE OTHER RESPONSE
OPTIONS
ASK IF S2_RB = YES]**

S_RB_BRANDS

Please note this question is about your personal purchases in the past 12 months.

Please select diet or regular ROOT BEER brands, if any, that you have purchased in the past 12 months for your personal use from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart). Please do not count any purchases you might have made at a restaurant.

Please do not guess.

	Yes	No
A & W	[]	[]
Barq's	[]	[]
IBC Root Beer	[]	[]
Mug	[]	[]
A Different Brand	[]	[]

TERMINATE IF NO 'YES' SELECTIONS AT S_CS_BRANDS OR S_RB_BRANDS.

[NOTE: RESPONDENT MUST MAKE A 'YES' SELECTION AT EITHER S_CS_BRANDS OR S_RB_BRANDS IN ORDER TO PROCEED.]

S_RB_TYPE. In the past 12 months, did you usually purchase regular or diet ROOT BEER from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart). Please select one.

- Diet
- Regular

CREATE DOV 'RB_DRINK_TYPE' WHERE 1 = DIET; 2 = REGULAR

W1

You have been selected to participate in our survey project.

To participate in this survey, you must agree to these instructions.

- Answer the questions with your honest answers and opinions. Do not guess.
- Answer the questions by yourself and without asking anybody else in your household for help.
- Answer the questions without getting help from a website or other materials.
- Answer all the questions in one sitting and not stopping in the middle.

Do you agree to our instructions?

- Yes, I agree to do this
- No, I do not agree to do this → **TERMINATE**

TERMINATE ALL CASES THAT DO NOT AGREE

- **CREATE DOV ELIGIBLE = 1 WHERE W1 = YES**
- **WHERE DOV ELIGIBLE = 1, CREATE DOV VARNAME 'BRAND_PURCH' WHERE**
 - 1 = R selected A & W at S_CS_Brands
 - 2 = R selected A & W at S_RB_Brands
 - 3 = All Else

ASSIGNMENT RULES FOR THE MAIN STUDY

(APPLIES TO CASES WHERE ELIGIBLE = 1)

THERE ARE TWO MAIN STUDY SURVEYS X 2 PRODUCTS FOR FOUR MAIN STUDY VERSIONS – RESPONDENTS ARE ASSIGNED TO ONLY ONE OF THE FOLLOWING FOUR GROUPS.

- **GROUP 1A:** CP_CS. CONSUMER PERCEPTIONS – CREAM SODA
- **GROUP 1B:** CP_RB. CONSUMER PERCEPTIONS – ROOT BEER
- **GROUP 2A** REF_CS. REFERENDUM - CREAM SODA
- **GROUP 2B** REF_RB. REFERENDUM – ROOT BEER

THE ASSIGNMENT WORKS AS FOLLOWS. ONLY CASES WHERE ELIGIBLE = 1 ARE ASSIGNED TO A GROUP.

- WHERE ELIGIBLE = 1 AND **DOV_PROD_TYPE = 1** (CREAM SODA ONLY), THEN RANDOMLY ASSIGN TO EITHER:
 - **GROUP 1A** CP_CS OR
 - **GROUP 2A** REF_CS.
- WHERE ELIGIBLE = 1 AND **DOV_PROD_TYPE = 2** (ROOT BEER ONLY), THEN ASSIGN TO EITHER
 - **GROUP 1B** CP_RB OR
 - **GROUP 2B** REF_RB.
- WHERE ELIGIBLE = 1 AND **DOV_PROD_TYPE = 3**(ROOT BEER AND CREAM SODA), THEN RANDOMLY ASSIGN TO ONE OF FOUR GROUPS:
 - **GROUP 1A, GROUP 1B, GROUP 2A, OR GROUP 2B**

FOR THE PRODUCT PICTURES TO BE SHOWN TO THE RESPONDENTS IN THE REFERENDUM, SHOW EITHER THE DIET PRODUCT PICTURES OR THE REGULAR/NON-DIET PICTURES BASED ON THESE DATA-ONLY VARIABLES

FOR GROUP 2A: DOV 'CS_DRINK_TYPE' WHERE 1 = DIET; 2 = REGULAR

FOR GROUP 2B: DOV 'RB_DRINK_TYPE' WHERE 1 = DIET; 2 = REGULAR

CONSUMER PERCEPTIONS SURVEY
MAIN STUDY SURVEY FOR CONSUMER PERCEPTIONS FOR
GROUP 1A CREAM SODA
GROUP 1B ROOT BEER

FOR GROUP 1A, SUBSTITUTE TEXT 'CREAM SODA' AND CREAM SODA PICS

FOR GROUP 1B, SUBSTITUE TEXT 'ROOT BEER' AND ROOT BEER PICS.

Now, we will ask you about your understanding of product labels on [**CREAM SODA/ROOT BEER**] soft drinks.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

NEW SCREEN

[10-SECOND SPEED BUMP BY SUPPRESSING CONTINUE/NEXT BUTTON]

Next, we are going to show you the labels of a [CREAM SODA/ROOT BEER] product.

Please take your time and view each of the products like you are in a store considering a purchase.

You might need to wait a few seconds before being able to go to the next screen.

[SHOW IF ASSIGNED GROUP 1A CREAM SODA. 10-SECOND SPEED BUMP BY SUPPRESSING CONTINUE/NEXT BUTTON]. PLACE ONE PICTURE PER SCREEN]





[SHOW IF ASSIGNED TO CP ROOT BEER 10-SECOND SPEED BUMP BY SUPPRESSING
CONTINUE/NEXT BUTTON]

[SHOW IF ASSIGNED TO ROOT BEER. PLACE ONE PICTURE PER SCREEN]







Thanks for viewing the product labels carefully.

[RANDOMIZE RESPONSE OPTIONS BUT KEEP THIS PAIR ALWAYS TOGETHER IN THIS ORDER:

- **Artificial ingredient ethyl vanillin**
- **Other artificial ingredient(s)**

ANCHOR 'NONE OF THESE.'

IF ASSIGNED TO GROUP 1A CREAM SODA, SHOW CREAM SODA SINGLE 12-OUNCE CAN PIC; IF ASSIGNED TO GROUP 1B ROOT BEER, SHOW ROOT BEER PIC (SHOWN BELOW). SHOW POP-UP BOX OF PIC WHEN R CLICKS ON PIC]

CP_1.

Based on your understanding of the product labels we showed you, what is your understanding of the statement “**MADE WITH AGED VANILLA**” on the A&W [Cream Soda/Root Beer] product?

Please select the option that is closest to your understanding of the “MADE WITH AGED VANILLA” statement. Please click on the product to view again.



The vanilla flavor comes mainly from ...

- **Vanilla extract** from the vanilla plant
- **Artificial ingredient ethyl vanillin**, which does not come from the vanilla plant
- **Other artificial ingredient(s)**, which does not come from the vanilla plant
- None of these

[GO TO FINAL BATTERY OF SURVEY QUESTIONS]

REFERENDUM SURVEY
MAIN STUDY SURVEY FOR REFERENDUM FOR
GROUP 2A CREAM SODA
GROUP 2B ROOT BEER

FOR GROUP 2A, SUBSTITUTE TEXT 'CREAM SODA' AND CREAM SODA PICS; FOR GROUP 2B, SUBSTITUE TEXT 'ROOT BEER' AND ROOT BEER PICS.

TO DETERINE WHETHER TO SUBSTITUTE TEXT 'DIET' OR 'REGULAR' OR TO DISPLAY DIET PRODUCT PICS OR REGULAR PICS, LOOK UP THESE DOV VALUES

FOR GROUP 2A: DOV 'CS_DRINK_TYPE' WHERE 1 = DIET; 2 = REGULAR

FOR GROUP 2B: DOV 'RB_DRINK_TYPE' WHERE 1 = DIET; 2 = REGULAR

Now, we have a few questions to get your feedback and opinions about [**CREAM SODA/ROOT BEER**] soft drinks.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

REFERENDUMintro1

[5-SECOND SPEED BUMP. PUT IN HARD RETURN AFTER EACH SENTENCE, SO THERE IS A BLANK ROW BETWEEN SENTENCES.]

Suppose you go to the store where you usually purchase [**CREAM SODA/ROOT BEER**] soft drinks.

Also, please suppose you intend to buy a [diet/regular (non-diet)] [**CREAM SODA/ROOT BEER**] product.

REFERENDUMintro2

[5-SECOND SPEED BUMP]

Suppose there are two types of A&W brand [cream soda/root beer] available in the store.

We'll call them [**CREAM SODA/ROOT BEER**] A and [**CREAM SODA/ROOT BEER**] B.

You don't have time to go to a different store.

REFERENDUMintro3

[10-SECOND SPEED BUMP]

[**CREAM SODA/ROOT BEER**] A and [**CREAM SODA/ROOT BEER**] B are the same in these ways.

- A&W Brand
- Price
- [IF DRINK_TYPE=1, SHOW:Diet Soft Drink /IF DRINK_TYPE=2, SHOW:Regular Soft Drink (not diet)]
- No Caffeine
- Number of Calories per 12-ounce serving
- Number of 12-ounce cans

REFERENDUMintro4

[10-SECOND SPPED BUMP. IF DRINK_TYPE = 1, SHOW the DIET CAN; IF DRINK_TYPE=2, SHOW THE REGULAR CAN]

[**CREAM SODA/ROOT BEER**] A and [**CREAM SODA/ROOT BEER**] B also share the same packaging and labels.

The packaging has the same statements about “MADE WITH AGED VANILLA” and “naturally and artificially flavored.”

Please take your time to view the product on the next screen like you are shopping.

Later we will ask you to answer questions based on your understanding of this product package.

REFERENDUMimages

[IF DRINK_TYPE=1 AND GROUP 2A, SHOW A PIC OF **THE DIET CREAM SODA** PRODUCT UNDER ‘CREAM SODA A AND CREAM SODA B’.

[IF DRINK_TYPE=2 AND GROUP 2A, SHOW A PIC OF **REGULAR** CREAM SODA PRODUCT UNDER ‘CREAM SODA A AND CREAM SODA B’.

IF DRINK_TYPE=1 AND GROUP 2B, SHOW A PIC OF **THE DIET ROOT BEER** PRODUCT UNDER ‘ROOT BEER A AND ROOT BEER B’.

IF DRINK_TYPE=2 AND GROUP 2B, SHOW A PIC OF THE **REGULAR** ROOT BEER PRODUCT UNDER ‘ROOT BEER A AND ROOT BEER B’.

MAKE PICS AS LARGE AS POSSIBLE TO FILL UP WHOLE SCREEN OF RESPONDENT’S DEVICE. SHOW THE HEADERS ON SCREEN: ‘CREAM SODA PRODUCT A AND CREAM SODA PRODUCT B’ ; : ‘ROOT BEER PRODUCT A AND ROOT BEER PRODUCT B’

SHOW IF DRINK_TYPE=1 AND GROUP 2A

CREAM SODA A AND CREAM SODA B



SHOW IF DRINK_TYPE=2 AND GROUP 2A

CREAM SODA A AND CREAM SODA B



SHOW IF DRINK_TYPE=1 AND GROUP 2B

ROOT BEER A AND ROOT BEER B



IF DRINK_TYPE=2 AND GROUP 2B

ROOT BEER A AND ROOT BEER B



[CREATE DOV 'ORDER' WHERE

1= CREAM SODA/ROOT BEER A is Made with Vanilla Extract and CREAM SODA/ROOT BEER B is Made with Artificial Ingredient

2= CREAM SODA/ROOT BEER A is Made with Artificial Ingredient and CREAM SODA/ROOT BEER B is Made with Vanilla Extract]

[RANDOMLY ASSIGN 50% OF Rs to ORDER = 1 condition; the other 50% to ORDER = 2]

REFERENDUMintro5

[PUT IN 15 SECOND SPEED BUMP]

The one difference between the two products is about the vanilla flavor in the statement “**MADE WITH AGED VANILLA**” on the package.

For one of the products, the vanilla flavor comes mainly from [IF ORDER=1:**vanilla extract**/IF ORDER=2:**artificial ingredient ethyl vanillin**] and for the other product the vanilla flavor comes mainly from [IF ORDER=1:**artificial ingredient ethyl vanillin**/IF ORDER=2:**vanilla extract**].

REFERENDUMintro6

[PUT IN 10 SECOND SPEED BUMP]

The only difference between the two products is the main source of the vanilla flavor.

[IF ORDER = 1, SHOW BELOW]

The vanilla flavor for [Cream Soda/Root Beer] **A** comes mainly from vanilla extract, which comes from the vanilla plant.

The vanilla flavor for [Cream Soda/Root Beer] **B** comes mainly from artificial ingredient ethyl vanillin, which does not come from the vanilla plant.

[IF ORDER = 2, SHOW BELOW]

The vanilla flavor for [Cream Soda/Root Beer] **A** comes mainly from artificial ingredient ethyl vanillin, which does not come from the vanilla plant.

The vanilla flavor for [Cream Soda/Root Beer] **B** comes mainly from vanilla extract, which comes from the vanilla plant.

REF.

[RELY ON ORDER VARIABLE TO DETERMINE WHETHER PRODUCT A OR B HAS THE VANILLA EXTRACT/ARTIFICIAL INGREDIENT TEXT.]

IF DRINK_TYPE = 1, SHOW DIET IN ATTRIBUTE FOR DIET; IF DRINK_TYPE= 2, SHOW REGULAR.

FOR THE CLICK HERE, SHOW THE DIET VERSUS REGULAR PHOTO OF THE 12-PACK BOX THAT WAS SHOWN EARLIER TO THE RESPONDENT

RANDOMIZE ORDER OF ATTRIBUTES IN TABLE BUT KEEP BRAND FIXED ON TOP AND KEEP THESE TWO ATTRIBUTES NEXT TO EACH OTHER: STATEMENT ON PACKAGE ABOUT FLAVOR SOURCES; STATEMENT ON PACKAGE ABOUT VANILLA INGREDIENT.

If these were your only two options, which of these two **[CREAM SODA/ROOT BEER]** products would you purchase?

Click **HERE** to see the package again.

Product Features	CREAM SODA/ROOT BEER A	CREAM SODA/ROOT BEER B
Brand	A&W	A&W
Price	Same	Same
Statement on Package about Flavor Sources	Naturally and Artificially Flavored	Naturally and Artificially Flavored
Statement on Package about Vanilla Ingredient	MADE WITH AGED VANILLA	MADE WITH AGED VANILLA
Main Source of Vanilla Flavor	[Vanilla extract/Artificial ingredient ethyl vanillin]	[Artificial ingredient ethyl vanillin/Vanilla extract]
Diet or Regular Soft Drink	[Diet/Regular]	[Diet/Regular]
Calories per serving	Same	Same
Number of 12-ounce cans	12	12
Please select one for purchase	<input type="radio"/>	<input type="radio"/>

☐ Don't Know

IF A RESPONDENT SELECTS “DON’T KNOW”, SKIP TO THE FINAL QUESTIONNAIRE SECTION

[ASK IF R DID NOT SELECT DON’T KNOW AT REFERENDUM]

qconfirm1/ qconfirm2

[INSERT **artificial ingredient ethyl vanillin/ vanilla extract from vanilla plant**] BASED ON SELECTION AT REFERENDUM.]

CONFIRM.

Thanks for your answer.

You said that you would purchase the [**Cream Soda/Root Beer**] product that has the vanilla flavor mainly from [**artificial ingredient ethyl vanillin/ vanilla extract from vanilla plant**].

Please confirm or not confirm that this is the [**Cream Soda/Root Beer**] product you would purchase.

- ☐ Yes, I confirm
- ☐ No, I do not confirm

[SHOW IF CONFIRM = NO]

[IF R HAD VOTED AT REFERENDUM FOR **artificial ingredient ethyl vanillin**, INSERT IN TEXT:**vanilla extract from vanilla plant**].

[IF R HAD VOTED AT REFERENDUM FOR **vanilla extract from vanilla plant**, INSERT IN TEXT: **artificial ingredient ethyl vanillin**].

REFERENDUMintroNo

Thanks for letting us know.

Did you mean to select the product that has [**artificial ingredient ethyl vanillin/ vanilla extract from vanilla plant**]?

- ☐ Yes
- ☐ No

FINAL QUESTIONNAIRE SECTION

ADMINISTERED AFTER Rs COMPLETE CONSUMER PERCEPTIONS OR REFERENDUM SURVEYS

[SHOW FINAL QUEX SECTION IF ELIGIBLE = 1 AND R COMPLETED THEIR ASSIGNED GROUP QUESTIONS]

We are almost done with this survey. Thanks very much for your help today.

[ASK IF VARNAME 'BRAND_PURCH' = 1 OR 3 (A&W CREAM SODA PURCHASERS)]

HOW_LONG_AW_CS

When did you first begin purchasing **A&W CREAM SODA** from a store for your personal use?

- ☐ In the last year
 - ☐ 1 to 2 years ago
 - ☐ 3 to 5 years ago
 - ☐ 6 to 10 years ago
 - ☐ More than 10 years ago
-

[ASK IF R ANSWERED HOW_LONG_AW_CS]

HOW_FREQ_AW_CS

In the past 12 months, how often did you purchase **A&W CREAM SODA** from a store for your personal use?

- ☐ Rarely
 - ☐ Somewhat rarely
 - ☐ Somewhat frequently
 - ☐ Frequently
-

[ASK IF VARNAME 'BRAND_PURCH' = 2 OR 3 (A&W ROOT BEER PURCHASERS)]

HOW_LONG_AW_RB

When did you first begin purchasing **A&W ROOT BEER** from a store for your personal use?

- ☐ In the last year
 - ☐ 1 to 2 years ago
 - ☐ 3 to 5 years ago
 - ☐ 6 to 10 years ago
 - ☐ More than 10 years ago
-

[ASK IF R ANSWERED HOW_LONG_AW_RB]

HOW_FREQ_AW_RB

In the past 12 months, how often did you purchase **A&W ROOT BEER** from a store for your personal use?

- ☐ Rarely
 - ☐ Somewhat rarely
 - ☐ Somewhat frequently
 - ☐ Frequently
-

[ASK IF R ANSWERED THE QUESTIONS IN THEIR ASSIGNED GROUP (1A, 1B, 2A, OR 2B)]

[DISABLE BACK BUTTON; NO GOING BACK; AUTOMATIC GO FORWARD AFTER 15 SECONDS – DO NOT AUTO PUNCH A RESPONSE IF MOVING FORWARD AUTOMATICALLY]

NEG_PUB_1.

Are you aware of any negative publicity or other news about A&W soft drink products?

1. Yes, I am aware
2. No, I am not aware

[ASK IF NEG_PUB_1= YES. AUTOMATIC GO FORWARD AFTER 30 SECONDS. SAVE ANY INFORMATION THAT IS ENTERED AT THE 30 SECOND MARK]

NEG_PUB_2.

Please tell us about any negative publicity or other news about A&W soft drink products.

[100-character text box]

[END SCREEN FOR ALL]

THANK YOU FOR PARTICIPATING IN OUR STUDY AND FOR YOU SHARING YOUR OPINIONS. YOUR PARTICIPATION IS VERY MUCH APPRECIATED.

EXHIBIT E

ATTACHMENT E


Online Screen Captures for the Questionnaire

We'll be asking you about purchases you might have made at grocery stores, discount retailers, online stores, specialty stores, and other retailers where you might purchase various products.

Please take your time in answering the survey questions. **Please don't guess.**

Let's start with an easy question. Where do you live?

Select one answer.

What is your gender?

☐ Male

☐ Female

What is your age?

- ☐ Less than 18
- ☐ 18-21
- ☐ 22-29
- ☐ 30-39
- ☐ 40-49
- ☐ 50-59
- ☐ 60-69
- ☐ 70 OR MORE

What is the highest level of education that you have completed?

- ☐ Less than High School
- ☐ High School or GED
- ☐ Completed Technical or Trade School
- ☐ Some College
- ☐ College degree (4 year)
- ☐ Post-graduate course work or degree

Thank you for telling us about yourself.

Have you taken any surveys **in the last 30 days** on any of these topics?

Please select all that apply.

- ☐ Cosmetics
- ☐ Sporting goods or outdoor gear
- ☐ Snack food products
- ☐ Advertisements on TV
- ☐ Alcoholic beverages
- ☐ Carbonated soft drinks/beverages
- ☐ Video games
- ☐ Clothing
- ☐ Websites you visit
- ☐ Shopping at retail stores
- ☐ None of these

How much of the grocery shopping do you do for your household?

Please select one.

- ☐ All of it
- ☐ Most of it
- ☐ About half
- ☐ Not much of it
- ☐ None of it

Have you purchased, or not purchased, any of these food and nutritional products in the past year?

Some of these are not common food and nutritional products, so please select **YES** only if you are absolutely sure you purchased the product in the **past 12 months**. Select **NO** if you did not purchase the product in the **past 12 months** or if you are not sure.

	Yes	No
Energy bars/energy drinks	<input type="radio"/>	<input type="radio"/>
Specialty vitamins (not multi-vitamins)	<input type="radio"/>	<input type="radio"/>
Multivitamins	<input type="radio"/>	<input type="radio"/>
Weight loss/management bars or drinks	<input type="radio"/>	<input type="radio"/>
Protein powders	<input type="radio"/>	<input type="radio"/>

Please indicate which, if any, of these **bottled or canned beverages** you purchased in stores for your personal use in the **past 12 months**?

“Stores” include retail stores like a convenience (including gas stations), grocery, or discount store (such as a Target or Walmart). Please do not count any purchases you might have made at a restaurant.

	Yes	No
Beer or wine	<input type="radio"/>	<input type="radio"/>
Energy drinks or shots	<input type="radio"/>	<input type="radio"/>
Coffee and tea	<input type="radio"/>	<input type="radio"/>
Cocktail mixes	<input type="radio"/>	<input type="radio"/>
Juice and cider	<input type="radio"/>	<input type="radio"/>
Protein shakes	<input type="radio"/>	<input type="radio"/>
Carbonated soft drinks / Pop	<input type="radio"/>	<input type="radio"/>
Water	<input type="radio"/>	<input type="radio"/>

Please indicate which, if any, of these beverages you have purchased for your personal use in the **past 12 months** from a retail store like a convenience, grocery, or discount store.

Please do not count any purchases you might have made at a restaurant.

Include both the diet and regular versions in your answer.

	Yes	No
7 Up	<input type="radio"/>	<input type="radio"/>
Coca Cola	<input type="radio"/>	<input type="radio"/>
Cola (store brand)	<input type="radio"/>	<input type="radio"/>
Cream soda (any brand)	<input type="radio"/>	<input type="radio"/>
Dr. Pepper	<input type="radio"/>	<input type="radio"/>
Fanta	<input type="radio"/>	<input type="radio"/>
Flavor Rite	<input type="radio"/>	<input type="radio"/>
Ginger Ale (any brand)	<input type="radio"/>	<input type="radio"/>
Mountain Dew	<input type="radio"/>	<input type="radio"/>
Orange sodas (any brand)	<input type="radio"/>	<input type="radio"/>
Pepsi	<input type="radio"/>	<input type="radio"/>
Root Beer (any brand)	<input type="radio"/>	<input type="radio"/>
Sprite	<input type="radio"/>	<input type="radio"/>

Please confirm or not confirm that you have purchased a **CREAM SODA** product in the past 12 months for your personal use from a retail store like a convenience, grocery, or discount store.

- ☐ Yes, I confirm purchasing this product in the past 12 months
- ☐ No, I do not confirm

Please note this question is about your personal purchases in the **past 12 months**.

Please select diet or regular **CREAM SODA brands**, if any, that you have purchased in the **past 12 months** for your personal use from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart). Please do not count any purchases you might have made at a restaurant.

Please do not guess.

	Yes	No
Dr. Pepper Cream Soda	<input type="radio"/>	<input type="radio"/>
A & W	<input type="radio"/>	<input type="radio"/>
Mug	<input type="radio"/>	<input type="radio"/>
Dr. Brown's	<input type="radio"/>	<input type="radio"/>
IBC Cream Soda	<input type="radio"/>	<input type="radio"/>
Zevia	<input type="radio"/>	<input type="radio"/>
A Different Brand	<input type="radio"/>	<input type="radio"/>

In the **past 12 months**, did you usually purchase regular or diet **CREAM SODA** from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart)?

Please select one.

- ☐ Diet
- ☐ Regular

You have been selected to participate in our survey project.
To participate in this survey, you must agree to these instructions.

- Answer the questions with your honest answers and opinions. Do not guess.
- Answer the questions by yourself and without asking anybody else in your household for help.
- Answer the questions without getting help from a website or other materials.
- Answer all the questions in one sitting and not stopping in the middle.

Do you agree to our instructions?

Select one

- ☐ Yes, I agree to do this
- ☐ No, I do not agree to do this

Please confirm or not confirm that you have purchased a **ROOT BEER** product in the past 12 months for your personal use from a retail store like a convenience, grocery, or discount store.

- ☐ Yes, I confirm purchasing this product in the past 12 months
- ☐ No, I do not confirm

Please note this question is about your personal purchases in the **past 12 months**.

Please select diet or regular **ROOT BEER brands**, if any, that you have purchased in the **past 12 months** for your personal use from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart). Please do not count any purchases you might have made at a restaurant.

Please do not guess.

	Yes	No
IBC Root Beer	<input type="radio"/>	<input type="radio"/>
A & W	<input type="radio"/>	<input type="radio"/>
Barq's	<input type="radio"/>	<input type="radio"/>
Mug	<input type="radio"/>	<input type="radio"/>
A Different Brand	<input type="radio"/>	<input type="radio"/>

In the **past 12 months**, did you usually purchase regular or diet **ROOT BEER** from a retail store like a convenience, grocery, or discount store (such as a Target or Walmart)?

Please select one.

- ☐ Diet
- ☐ Regular

You have been selected to participate in our survey project.
To participate in this survey, you must agree to these instructions.

- Answer the questions with your honest answers and opinions. Do not guess.
- Answer the questions by yourself and without asking anybody else in your household for help.
- Answer the questions without getting help from a website or other materials.
- Answer all the questions in one sitting and not stopping in the middle.

Do you agree to our instructions?

Select one

- ☐ Yes, I agree to do this
- ☐ No, I do not agree to do this

Consumer Perceptions Cream Soda

(Note: This screen is not shown to respondents)

Now, we will ask you about your understanding of product labels on **CREAM SODA soft drinks**.

There are no right answers or wrong answers. We just want your honest opinions.

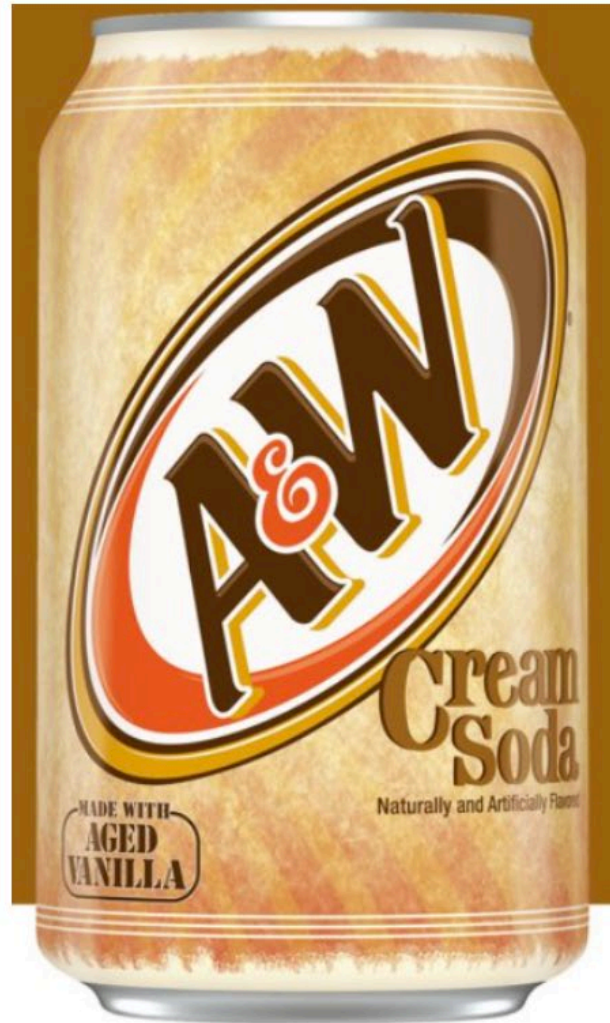
In answering our survey questions, please consider only the product labels we show you.

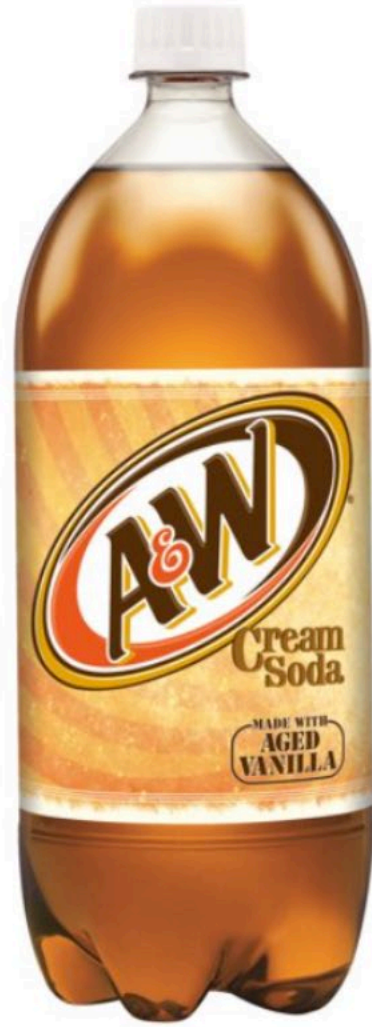
Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

Next, we are going to show you the labels of a **CREAM SODA** product.

Please take your time and view each of the products like you are in a store considering a purchase.

You might need to wait a few seconds before being able to go to the next screen.







Thanks for viewing the product labels carefully.

Based on your understanding of the product labels we showed you, what is your understanding of the statement **“MADE WITH AGED VANILLA”** on the A&W Cream Soda product?

Please select the option that is closest to your understanding of the “MADE WITH AGED VANILLA” statement. Please click on the product to view again.



The vanilla flavor comes mainly from...

- ☐ Artificial ingredient ethyl vanillin, which does not come from the vanilla plant
- ☐ Other artificial ingredient(s), which does not come from the vanilla plant
- ☐ Vanilla extract from the vanilla plant
- ☐ None of these

We are almost done with this survey. Thanks very much for your help today.

When did you first begin purchasing **A&W CREAM SODA** from a store for your personal use?

- ☐ In the last year
- ☐ 1 to 2 years ago
- ☐ 3 to 5 years ago
- ☐ 6 to 10 years ago
- ☐ More than 10 years ago

In the past 12 months, how often or not did you purchase **A&W CREAM SODA** from a store for your personal use?

- ☐ Rarely
- ☐ Somewhat rarely
- ☐ Somewhat frequently
- ☐ Frequently

Are you aware of any negative publicity or other news about A&W soft drink products?

- ☐ Yes, I am aware
- ☐ No, I am not aware

Please tell us about any negative publicity or other news about A&W soft drink products.



Thanks for completing the survey. This page is shown for testing only. Please close the window to exit.

Consumer Perceptions Root Beer

(Note: This screen is not shown to respondents)

Now, we will ask you about your understanding of product labels on **ROOT BEER soft drinks**.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

Next, we are going to show you the labels of a **ROOT BEER** product.

Please take your time and view each of the products like you are in a store considering a purchase.

You might need to wait a few seconds before being able to go to the next screen.







Thanks for viewing the product labels carefully.

Based on your understanding of the product labels we showed you, what is your understanding of the statement **“MADE WITH AGED VANILLA”** on the A&W Root Beer product?

Please select the option that is closest to your understanding of the “MADE WITH AGED VANILLA” statement. Please click on the product to view again.



The vanilla flavor comes mainly from...

- ☐ Artificial ingredient ethyl vanillin, which does not come from the vanilla plant
- ☐ Other artificial ingredient(s), which does not come from the vanilla plant
- ☐ Vanilla extract from the vanilla plant
- ☐ None of these

We are almost done with this survey. Thanks very much for your help today.

When did you first begin purchasing **A&W ROOT BEER** from a store for your personal use?

- ☐ In the last year
- ☐ 1 to 2 years ago
- ☐ 3 to 5 years ago
- ☐ 6 to 10 years ago
- ☐ More than 10 years ago

In the past 12 months, how often or not did you purchase **A&W ROOT BEER** from a store for your personal use?

- ☐ Rarely
- ☐ Somewhat rarely
- ☐ Somewhat frequently
- ☐ Frequently

Are you aware of any negative publicity or other news about A&W soft drink products?

- ☐ Yes, I am aware
- ☐ No, I am not aware

Thanks for completing the survey. This page is shown for testing only. Please close the window to exit.

Referendum Cream Soda

(Note: This screen is not shown to respondents)

Now, we have a few questions to get your feedback and opinions about **CREAM SODA** soft drinks.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

Suppose you go to the store where you usually purchase **CREAM SODA** soft drinks.

Also, please suppose you intend to buy a diet **CREAM SODA** product.

Suppose there are two types of A&W brand cream soda available in the store.

We'll call them **CREAM SODA A** and **CREAM SODA B**.

You don't have time to go to a different store.

CREAM SODA A and **CREAM SODA B** are the same in these ways.

- A&W Brand
- Price
- Diet Soft Drink
- No Caffeine
- Number of Calories per 12-ounce serving
- Number of 12-ounce cans

CREAM SODA A and CREAM SODA B also share the same packaging and labels.

The packaging has the same statements about "MADE WITH AGED VANILLA" and "Naturally and Artificially Flavored."

Please take your time to view the product on the next screen like you are shopping.

Later we will ask you to answer questions based on your understanding of this product package.

CREAM SODA A AND CREAM SODA B



The one difference between the two products is about the vanilla flavor in the statement **MADE WITH AGED VANILLA** on the package.

For one of the products, the vanilla flavor comes mainly from **artificial ingredient ethyl vanillin** and for the other product the vanilla flavor comes mainly from **vanilla extract**.

The only difference between the two products is the main source of the vanilla flavor.

The vanilla flavor for Cream Soda **A** comes mainly from artificial ingredient ethyl vanillin, which does not come from the vanilla plant.

The vanilla flavor for Cream Soda **B** comes mainly from vanilla extract, which comes from the vanilla plant.

If these were your only two options, which of these two **CREAM SODA** products would you purchase?

Click [HERE](#) to see the package again.

Product Features	CREAM SODA A	CREAM SODA B
Brand	A&W	A&W
Price	Same	Same
Number of 12-ounce cans	12	12
Calories per serving	Same	Same
Diet or Regular Soft Drink	Diet	Diet
Statement on Package about Flavor Sources	Naturally and Artificially Flavored	Naturally and Artificially Flavored
Statement on Package about Vanilla Ingredient	MADE WITH AGED VANILLA	MADE WITH AGED VANILLA
Main Source of Vanilla Flavor	Artificial ingredient ethyl vanillin	Vanilla extract
Please select one for purchase	<input type="radio"/>	<input type="radio"/>
	<input type="radio"/>	Don't Know

Thanks for your answer.

You said that you would purchase the **Cream Soda** product that has the vanilla flavor mainly from **artificial ingredient ethyl vanillin**.

Please confirm or not confirm that this is the **Cream Soda** product you would purchase.

- ☐ Yes, I confirm
- ☐ No, I do not confirm

Thanks for your answer.

You said that you would purchase the **Cream Soda** product that has the vanilla flavor mainly from **vanilla extract from vanilla plant**.

Please confirm or not confirm that this is the **Cream Soda** product you would purchase.

- ☐ Yes, I confirm
- ☐ No, I do not confirm

Thanks for your answer.

You said that you would purchase the **Cream Soda** product that has the vanilla flavor mainly from **vanilla extract from vanilla plant**.

Please confirm or not confirm that this is the **Cream Soda** product you would purchase.

- ☐ Yes, I confirm
- ☐ No, I do not confirm

We are almost done with this survey. Thanks very much for your help today.

When did you first begin purchasing **A&W CREAM SODA** from a store for your personal use?

- ☐ In the last year
- ☐ 1 to 2 years ago
- ☐ 3 to 5 years ago
- ☐ 6 to 10 years ago
- ☐ More than 10 years ago

In the past 12 months, how often or not did you purchase **A&W CREAM SODA** from a store for your personal use?

- ☐ Rarely
- ☐ Somewhat rarely
- ☐ Somewhat frequently
- ☐ Frequently

Are you aware of any negative publicity or other news about A&W soft drink products?

- ☐ Yes, I am aware
- ☐ No, I am not aware

Thanks for completing the survey. This page is shown for testing only. Please close the window to exit.

Thanks for completing the survey. This page is shown for testing only. Please close the window to exit.

Referendum Root Beer

(Note: This screen is not shown to respondents)

Now, we have a few questions to get your feedback and opinions about **ROOT BEER** soft drinks.

There are no right answers or wrong answers. We just want your honest opinions.

In answering our survey questions, please consider only the product labels we show you.

Because we want you to take your time, you might need to wait a few seconds before going to the next screen or question.

Suppose you go to the store where you usually purchase **ROOT BEER** soft drinks.

Also, please suppose you intend to buy a regular (non-diet) **ROOT BEER** product.

Suppose there are two types of A&W brand root beer available in the store.

We'll call them **ROOT BEER A** and **ROOT BEER B**.

You don't have time to go to a different store.

ROOT BEER A and **ROOT BEER B** are the same in these ways.

- A&W Brand
- Price
- Regular Soft Drink (not diet)
- No Caffeine
- Number of Calories per 12-ounce serving
- Number of 12-ounce cans

ROOT BEER A and ROOT BEER B also share the same packaging and labels.

The packaging has the same statements about "MADE WITH AGED VANILLA" and "Naturally and Artificially Flavored."

Please take your time to view the product on the next screen like you are shopping.

Later we will ask you to answer questions based on your understanding of this product package.

ROOT BEER A AND ROOT BEER B



The one difference between the two products is about the vanilla flavor in the statement **MADE WITH AGED VANILLA** on the package.

For one of the products, the vanilla flavor comes mainly from **vanilla extract** and for the other product the vanilla flavor comes mainly from **artificial ingredient ethyl vanillin**.

The only difference between the two products is the main source of the vanilla flavor.

The vanilla flavor for Root Beer **A** comes mainly from vanilla extract, which comes from the vanilla plant.

The vanilla flavor for Root Beer **B** comes mainly from artificial ingredient ethyl vanillin, which does not come from the vanilla plant.

If these were your only two options, which of these two **ROOT BEER** products would you purchase?

Click [HERE](#) to see the package again.

Product Features	ROOT BEER A	ROOT BEER B
Brand	A&W	A&W
Statement on Package about Vanilla Ingredient	MADE WITH AGED VANILLA	MADE WITH AGED VANILLA
Statement on Package about Flavor Sources	Naturally and Artificially Flavored	Naturally and Artificially Flavored
Price	Same	Same
Calories per serving	Same	Same
Diet or Regular Soft Drink	Regular	Regular
Number of 12-ounce cans	12	12
Main Source of Vanilla Flavor	Vanilla extract	Artificial ingredient ethyl vanillin
Please select one for purchase	<input type="radio"/>	<input type="radio"/>
	<input type="radio"/>	Don't Know

Thanks for your answer.

You said that you would purchase the **Root Beer** product that has the vanilla flavor mainly from **vanilla extract from vanilla plant**.

Please confirm or not confirm that this is the **Root Beer** product you would purchase.

- ☐ Yes, I confirm
- ☐ No, I do not confirm

We are almost done with this survey. Thanks very much for your help today.

When did you first begin purchasing **A&W ROOT BEER** from a store for your personal use?

- ☐ In the last year
- ☐ 1 to 2 years ago
- ☐ 3 to 5 years ago
- ☐ 6 to 10 years ago
- ☐ More than 10 years ago

In the past 12 months, how often or not did you purchase **A&W ROOT BEER** from a store for your personal use?

- ☐ Rarely
- ☐ Somewhat rarely
- ☐ Somewhat frequently
- ☐ Frequently

Are you aware of any negative publicity or other news about A&W soft drink products?

- ☐ Yes, I am aware
- ☐ No, I am not aware

Please tell us about any negative publicity or other news about A&W soft drink products.



EXHIBIT I

1/6

Customers also bought these products



About This Item

We aim to show you accurate product information. Manufacturers, suppliers and others provide what you see here, and we have not verified it. [See our disclaimer](#)

Treat yourself to a deliciously refreshing American classic with Diet A&W Root Beer. Diet A&W Root Beer is made with the sweet and smooth taste of vanilla. It has zero calories, plus it's caffeine free. It is the perfect special treat to have at your next family night. A&W has become the standard in root beer soft drinks, and it's best when enjoyed in an ice-cold mug or with vanilla ice cream for a delicious root beer float that the entire family can enjoy. Make your day or family night a little bit sweeter with the rich and flavorful taste of Diet A&W Root Beer.Sweet vanilla taste Zero calories per 12 fluid ounce serving Caffeine free Diet Root Beer Soda Great for floats Great for family night

Ingredients:

Ingredients: CARBONATED WATER, CARAMEL COLOR, SODIUM BENZOATE (PRESERVATIVE), ASPARTAME, ACESULFAME POTASSIUM, NATURAL AND ARTIFICIAL FLAVORS, MALIC ACID, QUILLAIA EXTRACT

Specifications

Brand	A&W
Manufacturer	A&W Concentrate Company

Customers also viewed these products

Sponsored Products

Customer Comments

What others said when purchasing this item

I can't find this item anywhere.
LMonster, purchased on January 22, 2021 [Report](#)

Because I like it
Happy, purchased on January 21, 2021 [Report](#)

See all comments

Customer reviews & ratings

4.5

★★★★☆

211 ratings

88%

Recommended

(100 of 113)

5 stars

4 stars

3 stars

2 stars

1 star

170

14

6

5

16

Write a review

See all reviews

Most helpful positive review

★★★★★ Super No Caffeine No Sugar Drink!!
Perfect for anyone who wants to avoid the sugar and the caffeine and still have a 'cold cola' drink!



Most helpful negative review

★★★★★
I am going to dispute this charge. All boxes with drinks looked like they had been thrown around and many cans burst! I am switching back to Amazon. This is the worst service ever.

See more

See more

Frequent mentions

- Taste (21)
- Smoothness (2)
- Vanilla (1)
- Rooty beer (1)
- Price (1)
- Ice cream (1)
- Ice cold (1)
- For diabetics (1)
- See more

1-5 of 211 reviews

Most relevant

Sort by

★★★★★ Super No Caffeine No Sugar Drink!!

January 22, 2021 | [Verified purchase](#)

Perfect for anyone who wants to avoid the sugar and the caffeine and still have a 'cold cola' drink!

[See more](#) ▾

suzanne

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

★★★★★ A & W Diet Root Beer

November 15, 2016 | [Verified purchase](#)

We are addicted to this! We have tried other brands, but there isn't even a very subtle taste of vanilla! This Root Beer certainly fits the bill. The same can't be said of the other brands!

[See more](#) ▾

divaldee

Helpful? [Yes \(3\)](#) [No \(0\)](#) | [Report](#)

★★★★★ Loving the taste!

January 14, 2021 | [Verified purchase](#)

I love the taste of root beer and these A

[See more](#) ▾

Millie777

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

★★★★★ Root beer

April 13, 2020 | [Verified purchase](#)

This Root beer doesn't taste like diet .

[See more](#) ▾

Creschantal

Helpful? [Yes \(2\)](#) [No \(0\)](#) | [Report](#)

★★★★★ My favorite

December 10, 2020 | [Verified purchase](#)

Its great my favorite drink. no caffeine is wonderful for me..

Likes Package, Change, Smoothness, Caffeine, Snack

[See more](#) ▾

Lori

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

See all 211 reviews

Sponsored Products



Customer Q&A

Get specific details about this product from customers who own it.

Ask a question

Policies & Plans

Pricing policy

Returns

About our prices

We're committed to providing low prices every day, on everything. So if you find a current lower price from an online retailer on an identical, in-stock product, tell us and we'll match it. See more details at [Online Price Match](#).

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Delicious any time of day [Shop now](#)

Customers also viewed these products

Food / Beverages / Soda Pop / All Soda Pop



x1



A&W



A&W Cream Soda, 12 fl oz cans, 12 pack
★★★★ (4.4) [70 ratings](#) [16 comments](#) Walmart # 569789083

\$4.58 - \$11.98

Pack Size: Choose an option

Qty: 1

[Get in-stock alert](#)

[Add to list](#) [Add to registry](#)

This product is:

[Low Sodium](#)

[See full item details](#)

[Report incorrect product information](#)

Shop Now

Consider these popular products



About This Item

We aim to show you accurate product information. Manufacturers, suppliers and others provide what you see here, and we have not verified it. [See our disclaimer.](#)

From the brand that brought you the sweet taste of America's favorite root beer founded in Lodi, California way back in 1919, comes A&W Cream Soda. Caffeine-free and made with the deliciously creamy and smooth taste of vanilla, it's the perfect way to enjoy family nights. Whether you're watching a movie, enjoying a board game, or simply taking in the great outdoors gathered around a campfire, A&W Cream Soda makes the night that much sweeter. Although you can easily enjoy it all by itself in a frosty mug, nothing quite beats the taste of an A&W Cream Soda paired with all your favorite foods. So, whether you're enjoying a full, delicious meal or digging into a sweet dessert, pop open an A&W Cream Soda and make it a 100% truly decadent experience. When you're in the mood for an ultra-sweet indulgent treat, you can't go wrong with an A&W Cream Soda!

- CLASSIC CREAM SODA: Classic American soft drink made with the deliciously creamy and smooth taste of vanilla
- CAFFEINE FREE: Sweet treat doesn't contain caffeine so you can enjoy it day or night
- DECADENT TREAT: Whether you're enjoying a full, delicious meal or digging into a sweet dessert, pop open an A&W Cream Soda and make it a 100% truly decadent experience
- TRUSTED SINCE 1919: Made by the same people who brought you A&W Root Beer, an American classic since it was first sold in 1919
- FAMILY FUN: Make Family Night more fun with the great taste of A&W Cream Soda
- One 12-pack of 12 fluid ounce cans

Ingredients:

Ingredients: CARBONATED WATER, HIGH FRUCTOSE CORN SYRUP, SODIUM BENZOATE (PRESERVATIVE), CARAMEL COLOR, CITRIC ACID, YUCCA EXTRACT, NATURAL AND ARTIFICIAL FLAVORS, CAFFEINE

Explore this item

Specifications	Nutrition Facts
Brand	A&W
Manufacturer	A&W Concentrate Company
Assembled Product Dimensions (L x W x H)	5.20 x 15.67 x 4.90 Inches

Sponsored Products

Customer Comments

Roney69, purchased on November 27, 2020 [Report](#)

Chanelle, purchased on November 25, 2020 [Report](#)

See all comments

Customer reviews & ratings

4.4

★★★★☆

70 ratings

90%

Recommended

(49 of 54)

5 stars

4 stars

3 stars

2 stars

1 star

56

5

1

0

8

Write a review

See all reviews

Most helpful positive review

★★★★★ Tasty cream soda

This is a good brand of cream soda, it taste like it's supposed to versis sugar and water like the generics.



Most helpful negative review

★★★★★

I'm diabetic and I love the DIET cream soda. Walmart never has it anymore. One can of this is almost 50% sugar. Bad. Really bad for anyone.

See more

See more

Frequent mentions

- Taste (8)
- Wine (1)
- Root beer (1)
- Refreshment (1)
- Price (1)
- Float (1)
- Error (1)

1-5 of 70 reviews

Most relevant

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★★★★★ Tasty cream soda

January 19, 2021 | [Verified purchase](#)

This is a good brand of cream soda, it taste like it's supposed to versis sugar and water like the generics.

[See more](#) ▾

Paula

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

★★★★★ Amazing cream soda.

November 25, 2020 | [Verified purchase](#)

This cream soda is amazing. I absolutely love it. It has no caffeine and the perfect amount of aged vanilla. It has an excellent price point to boot.

[See more](#) ▾

Tim

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

★★★★★ Love it but...

August 27, 2020 | [Verified purchase](#)

I love cream soda but they stop making them for weeks at a time. I need to stock up when its available.

[See more](#) ▾

WalmartCustomer

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

★★★★★ Love it!

November 30, 2016 | [Verified purchase](#)

Great drink, great price!

[See more](#) ▾

Shua

Helpful? [Yes \(1\)](#) [No \(0\)](#) | [Report](#)

★★★★★ a&w cream soda

December 19, 2016 | [Verified purchase](#)

good tasting soda, better flavor than all the "coke flavored stuff" , goes great with a scoop of vanilla ice cream.

[See more](#) ▾

rayroy

Helpful? [Yes \(0\)](#) [No \(0\)](#) | [Report](#)

See all 70 reviews

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Diet Soda · All Soda · Zero Calorie Soda · Craft Soda · Gluten Free Soda

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Shop A&w Diet Cream Soda - Free 2-day Shipping w/ Prime

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Rating for amazon.com: 4.5 - Order accuracy: 95-100%
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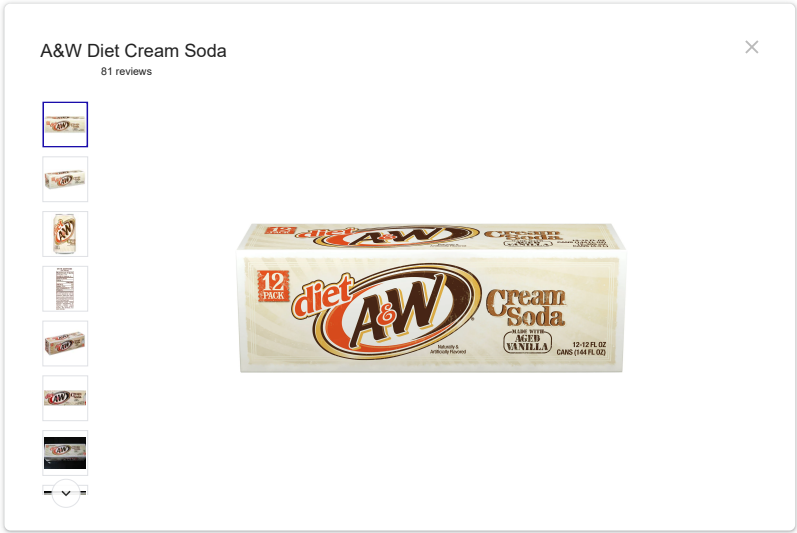
A&W

Other

			
A&W Root Beer	A&W Diet Root Beer	A&W Cream Soda	A & W Cream Soda 12 Pack
(762)	(255)	(537)	(263)
Container Type Can	Container Type Can	Container Type Can	Container Type Plastic Bottle
Pack Count 12 Pack, 24 Pack, 6 Pa...	Pack Count 24 Pack, 6 Pack	Pack Count 12 Pack, 24 Pack, 6 Pa...	Pack Count 12 Pack
Variety Root Beer	Variety Root Beer	Variety Cream Soda	Variety Cream Soda
Compare	Compare	Compare	Compare

Searches related to a&w diet cream soda

- [a&w diet cream soda shortage](#)
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Diet Soda · All Soda · Zero Calorie Soda · Craft Soda · Gluten Free Soda

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We Hand Select Your Items & Deliver Them To Your Door When It's Most Convenient. Shop Now!
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Other

			
A&W Root Beer	A&W Diet Root Beer	A&W Cream Soda	A & W Cream Soda 12 Pack
(762)	(255)	(537)	(263)
Container Type Can	Container Type Can	Container Type Can	Container Type Plastic Bottle
Pack Count 12 Pack, 24 Pack, 6 Pa...	Pack Count 24 Pack, 6 Pack	Pack Count 12 Pack, 24 Pack, 6 Pa...	Pack Count 12 Pack
Variety Root Beer	Variety Root Beer	Variety Cream Soda	Variety Cream Soda
<div>Compare</div>	<div>Compare</div>	<div>Compare</div>	<div>Compare</div>

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BRING HOME

The Root Beer

Introduce your family to A&W Root Beer and make frosty mug memories.

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PLAY

PLAY





START WITH A FROSTED MUG

- 1 Add 2 scoops s'mores ice cream.
- 2 Fill to top with A&W® Root Beer.
- 3 Top with a toasted marshmallow, mini chocolate chips, and graham cracker crumbs.

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START WITH A FROSTED MUG

- 1 Put some brownie bits in the mug.
- 2 Add 2 scoops of vanilla ice cream.
- 3 Fill to top with A&W® Root Beer.
- 4 Top with whipped cream, chocolate sauce, che

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Customer Rating

☐ ★★★★★ & Up

☐ ★★★★★ & Up

☐ ★★★★★ & Up

☐ ★★★★★ & Up

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Dr. Browns Cream Soda 12 oz Cans - Pack of 24

★★★★★ 7

\$17.48 (91 c/ff oz)

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W+ free shipping

A&W Root Beer, 5 L bottles, 6 pack

★★★★★ 163

\$2.98 (\$5.96/ff oz)

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Doctor Pepper Cream Soda 20 oz Bottles (Pack of 10, Total of 200 F...

★★★★★

\$31.99

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Great Value Root Beer, 67.6 fl oz

★★★★★ 27

\$0.74

Free pickup today

Great Value Diet Root Beer, 67.6 fl oz

★★★★★ 47

\$0.74 (1.0 c/ff oz)

Pickup Only

Free pickup today

Dr. Browns Cream Soda 12 oz Cans - Pack of 24

★★★★★

\$37.00

Sold & shipped by Tal USA

Free delivery

Boylan Soda Creme Single 12 Oz (Pack Of 24)

★★★★★ 2

\$38.47 (13.4 c/ff oz)

Free delivery

W+ free shipping

Mug Root Beer, 12 Fl Oz, 12 Count

★★★★★ 21

\$4.98

Pickup Only

Free pickup today

A&W Root Beer Zero Sugar, 5 L bottles, 6 pack

★★★★★ 151

\$2.98 (\$5.48/ff oz)

Pickup Only

Free pickup today

Shasta Cream Soda, 12-Ounce cans (Pack Of 24)

★★★★★

\$31.99

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Barq's Root Beer Soda Soft Drink, 2 Liters

★★★★★ 65

\$1.25

Free pickup today

A&W Root Beer Zero Sugar Soda, 2 L bottle

★★★★★ 153

\$1.25 (50.0 c/ff oz)

Pickup Only

Free pickup today

(4 Pack) Blue Sky Natural Cream Soda, 12 Oz.

★★★★★

\$14.98 - \$22.99

W+ free shipping

A&W Root Beer, 2 L bottle

★★★★★ 146

\$1.25 (\$2.11/ff oz)

Pickup Only

Free pickup today

(6 Pack) Virgil's Micro Brewed Cream Soda, 4/ 12 Fl Oz

★★★★★ 2

\$29.34

W+ free shipping

Dr Pepper & Cream Soda, 20 fl oz bottle

★★★★★ 264

\$1.88

Free pickup today

A&W Root Beer, 12 fl oz bottles, 8 pack

★★★★★ 350

\$3.98 (27.8 c/ff oz)

Pickup Only

Free pickup today

Cream Soda Extract 2 oz

★★★★★

\$9.49

Sold & shipped by Home Brew Stuff Inc

Free delivery

Cream Soda

★★★★★

\$10.28

Sold & shipped by Home Brew Ohio

Free delivery


Sprecher Brewing Sprecher Cream Soda, 4 ea

★★★★★

\$80.25

Sold & shipped by Factory Hardware Store

Free delivery




★★★★★

136

\$1.88 (9.4 c/fl oz)

Pickup Only

Free pickup today




★★★★★

1

\$28.99

Sold & shipped by MGR Fantastic Deals Inc

Free delivery




★★★★★

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\$38.99

Sold & shipped by Massive Brands, Inc.

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★★★★★

10

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Free delivery




★★★★★

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Free delivery




★★★★★

250

\$32.19

 Sold & shipped by Cheapees

Free delivery




★★★★★

1

\$19.19

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Free delivery




★★★★★

1

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★★★★★

14

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Free pickup today



★★★★★

1

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Package Quantity

Deals

Type

Health Facts

Flavor

Dietary Needs

Butter Form

Oil Form

Beverage State

Liquor Type

Cheese Form

Guest Rating

☐ Include out of stock

“cream soda”
296 results



A&W Cream Soda - 12pk/12 fl oz Cans

A&W
★★★★☆ 1

\$4.59
Buy 2 for \$9 with same-day order services

Shipping not available
Not at Pittsburg

Check stores

Shipping & Pickup Sort by Relevance



Dr. Brown's The Original Cream Soda 6pk - 72 fl oz

Dr. Brown's
★★★★☆ 1

\$2.99

Only ships with \$35 orders
Limited stock
Only a few left for shipping
Not at Pittsburg
[Check nearby stores](#)
Add for shipping



Dr Pepper Cream Soda - 12pk/12 fl oz Cans

Dr Pepper
★★★★★ 282

\$5.19
Get it as soon as 8pm today with Shipt
Ready within 2 hours with pickup

Add for delivery




Zevia Cream Soda Zero Calorie Soda - 6pk/12 fl oz Cans

Zevia
★★★★☆ 8

\$4.99

\$4 with same-day order services
Get it as soon as 8pm today with Shipt
Ready within 2 hours with pickup

Add for delivery



A&W Root Beer - 16.9 fl oz Bottle

A&W

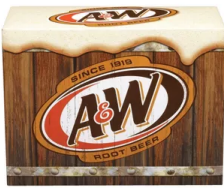
★★★★★ 22

\$1.69

Get it as soon as 8pm today with Shipt

Ready within 2 hours with pickup

Add for delivery



A&W Root Beer - 12pk/12 fl oz Cans

A&W

★★★★★ 28

\$4.59

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Ready within 2 hours with pickup

Add for delivery

Power every adventure with protein

Shop Kodiak Cakes items made with 100% whole grains.





Dr Pepper Cream Soda - 6pk/16.9 fl oz Bottles


Dr Pepper

★★★★★ 281

\$3.49

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I.B.C. Root Beer Made with Sugar - 4pk/12 fl oz Glass Bottles


I.B.C. Root Beer

★★★★★ 3

\$2.99

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A&W Root Beer Soda - 10pk/7.5 fl oz Mini Cans

A&W

★★★★★21

\$3.99

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IBC Cream Soda Made wi...

\$3.35

12.9 ml Big Lots

FRESH 12oz Cream Soda ...

\$15.99

Soda Emp...

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\$2.69

African Hut

Henry Weinhard's Or...

\$8.99

7.8 ml BevMo!

FRESH 6 Pk 20oz Big Red ...

\$12.99

Soda Emp...

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12 cans / 12 fl oz UPC: 0007800005512

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\$4.99

Buy 3 For \$9.99

☐

Delivery


\$4.99

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Ship

Unavailable

 Limit 4 soda can packs

Sign In to Add

Product Details

Treat yourself to the All-American classic flavor with Diet A&W Cream Soda, made with the signature delicious creamy and smooth taste of vanilla with zero calories per 12 oz serving and is caffeine free. It is the perfect special treat to have at your next family night. Diet A&W Cream Soda has become the standard for diet cream soda drinks. This rich and frothy treat is best enjoyed in an ice-cold mug or with vanilla ice cream for a delicious cream float that the entire family can enjoy. Make your day or your family night a little bit sweeter with the taste of Diet A&W Cream Soda.

- Disclaimer: Due to high demand, variety is extremely limited from our suppliers. We apologize for any inconvenience.

Nutrition Information

Nutrition Facts
servings per container 1 can
Serving size 1 can
Amount per serving
Calories 0
% Daily value*
Total Fat 0g 0%
Sodium 100mg 4.35%
Total Carbohydrate 0g 0%
Protein 0g

*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

Gluten Free

Ingredients

Carbonated Water, Sodium Benzoate (Preservative), Aspartame, Caramel Color, Citric Acid, Yucca Extract, Natural and Artificial Flavors


Allergen Info

Free from Crustaceans and Their Derivatives,Wheat and Their Derivatives,Sesame Seeds and Their Derivatives,Eggs and Their Derivatives,Fish and Their Derivatives,Soybean and its Derivatives,Milk and its Derivatives,Tree Nuts and Their Derivatives,Peanuts and Their Derivatives.


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Ralphs - Diet A&W Cream Soda, 12 cans / 12 fl oz

Diet Pepsi Cola Soda

12 cans / 12 fl oz

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Coca-Cola Cherry Cola Soda

12 cans / 12 fl oz

Sign In to Add

Coca-Cola Zero Sugar Cola Soda

12 cans / 12 fl oz

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Pepsi Cola Vanilla Soda

12 cans / 12 fl oz

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Diet Coke Sod

12 cans / 12 fl oz

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12 cans / 12 fl oz

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Diet Pepsi Cola Soda

12 cans / 12 fl oz

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Prices May Vary

Dr Pepper & Cream Diet Soda

12 cans / 12 fl oz

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Prices May Vary

Diet Dr Pepper Soda

12 cans / 12 fl oz

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Diet Mountain

12 cans / 12 fl oz

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Rating Snapshot

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29

4 ★

3

3 ★

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2 ★

1

1 ★

1

Average Customer Ratings

Overall

★★★★★

4.7

1-8 of 34 Reviews

?

Sort by: Most Relevant ▾

≡

Root Beer Peer

Chino, CA


Review 1

★★★★★ - 4 months ago

Life's Purpose- Diet A&W

When I come back from a stressful day of work non stop nagging by my boss and I get home to hear more nagging from my wife about not cleaning the dishes while she put my baby to sleep. Its always just stress for a working man as myself. But there are nights where I can escape it all, when i look into the joy of my lifes eyes. And im not talking about my son, when i open the fridge and open my Diet Cream Soda by A&W and hear the crisp fizz of the carbonation trapped inside with this golden liquid and released into earths atmosphere, when the bottle touches my lips and I finally get to taste the rich Cream Soda inside it reminds me why I continue to live in this world. During my diet cream soda time, im finally free in my own world. Thank you A&W for making my most cherished drink diet and giving me the ability to enjoy the greatest drink ever made without regret.

Yes, I recommend this product.

Originally posted on awrootbeer.com

Jessi

Apple Valley, MN, United States

Review 1

★★★★★ - 3 years ago


Where's the caffeine?

Diet A&W Cream Soda has been my pop of choice for a number of years now. However when I purchase my 2 12-packs last week I noticed all of a sudden the cases say, "No Caffeine." I enjoy my caffeine so I sought out Diet A&W Cream Soda at the other 2 major stores in my area only to find they ALL say "No Caffeine!" Wondering if they're phasing out the caffeine version??


[Skip to content](#)

[Skip to content](#)

Jmn2326
Nipomo, CA
Review 1

Yes, I recommend this product.
 Originally posted on awrootbeer.com

★★★★ - 2 years ago
Bad taste
I have been drinking diet cream soda for years, it's the only soda I buy. It's hard to find in my area, so when I do find it, I buy as much as I can. My recent purchase tastes horrible! It tastes like the generic Walmart brand in an A&W can. So dissatisfied, I opened a second twelve pack hoping it was just the one, but nope, same horrible taste.

No, I do not recommend this product.
 Originally posted on awrootbeer.com


shalamarmermaid
Review 1

★★★★★ - a year ago
Cream soda always reminds me of my childhood and trips to the A&W Root Beer stand. I don't drink sodas often but when I do A&W Diet Cream Soda is a favorite. I don't want all the sugar or a chemical taste this takes care of both those problems. If you like cream soda this is a good one.

influenster Originally posted on influenster.com


Nina
New Bedford, MA, USA
Review 1

★★★★★ - 3 years ago
what happened
Have been drinking this product for many years. Last week I purchased it at a different grocery store (Market Basket) and the taste is way way off. Thought it was only one bottle but the next is the same. What could have happened. I purchased 9 bottles at the time.

Yes, I recommend this product.
 Originally posted on awrootbeer.com

Rita1620
TULSA, OKLAHOMA
Review 1

★★★★★ - 4 years ago
Fantastic drink
In 2003 was diagnosed with dieabetis. Quit mountain dew cold turkey. Decided I would try the diet root beer after trying many other diet flavors. The drink has no after taste and is rather refreshing cause it doesn't taste like it's augarfree.

Yes, I recommend this product.
 Originally posted on awrootbeer.com


laurenb361
Review 1

★★★★★ - 5 months ago
this is probably the sweetest drink that has ever been made on planet earth. It tastes really good but it is very sweet, it is good for dessert but I could never eat it with a full meal just because of the sweetness level

influenster Originally posted on influenster.com

Cynthia
South Bend, IN
Review 1

★★★★★ - 6 months ago
Best Diet Soda Ever!
I tried this product for the first time earlier this year. It is the best diet soda I have ever tasted; it tastes like a regular soda. There is no after taste. Unfortunately, now I can't find the product anywhere.

Yes, I recommend this product.
 Originally posted on awrootbeer.com

1-8 of 34 Reviews



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root beer



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☐ Ralphs Sodamix
☐ Great Value
☐ Virgil's
☐ BAWLS Guarana
☐ A&W Zero Sugar
☐ Frostop Root Beer
☐ Boylan Bottling Company

Price
 -
☐ \$0 - \$5
☐ \$5 - \$10
☐ \$10 - \$15
☐ \$15 - \$20
☐ \$20 - \$25
☐ \$25 - \$50
☐ \$50 - \$75
☐ \$75+

Flavor
☐ Root Beer
[See More Flavors](#)

Size
☐ 20 fl oz
☐ 12 fl oz
☐ 16 fl oz
☐ 2 L
☐ 144 fl oz
☐ 67.6 fl oz
☐ 10 fl oz

Kids' favorite juice drink
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ROOT BEER

(2 Pack) A&W Root Beer, 12 Fl Oz Cans, 12 Ct

★★★★★ 220

\$11.98

2-day delivery

[W+ free shipping](#)

(2 Pack) Diet A&W Root Beer, 12 Fl Oz Cans, 12 Ct

★★★★★ 200

\$11.98

2-day delivery

[W+ free shipping](#)

A&W Root Beer, 5 L bottles, 6 pack

★★★★★ 163

\$2.98 (\$5.96/fl oz)

Pickup Only

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ROOT BEER

A&W Root Beer, 2 L bottle

★★★★★ 146

\$1.25 (\$2.11/fl oz)

Pickup Only

Free pickup today

A&W Root Beer, 7.5 fl oz mini cans, 10 pack

★★★★★ 78

\$3.48

Free pickup today

A&W Root Beer Zero Sugar Soda, 2 L bottle

★★★★★ 153

\$1.25 (\$0.0 c/fl oz)

Pickup Only

Free pickup today

Great Value Root Beer, 67.6 fl oz

★★★★★ 27

\$0.74

Free pickup today

A&W Root Beer Zero Sugar, 5 L bottles, 6 pack

★★★★★ 151

\$2.98 (\$5.48/fl oz)

Pickup Only

Free pickup today

ROOT BEER

A&W Root Beer, 12 fl oz cans, 24 pack

★★★★★ 250

\$32.19

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Free delivery

2 Liter

Barq's Root Beer Soda Soft Drink, 2 Liters

★★★★★ 65

\$1.25

Free pickup today



root beer

- ☐ Soda
- ☐ Box
- ☐ Can

Special Diet Needs

- ☐ Gluten-Free
- ☐ Vegan
- ☐ Organic
- ☐ Caffeine-Free
- ☐ Fat-Free
- ☐ Kosher
- ☐ Low Sodium

See More Special Diet Needs

Customer Rating

- ☐ ★★★★★ & Up
- ☐ ★★★★☆ & Up
- ☐ ★★★☆☆ & Up
- ☐ ★★☆☆☆ & Up
- ☐ ★☆☆☆☆ & Up

Retailer

- ☐ Walmart.com

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Type

- ☐ Diet
- ☐ Root Beer & Cream Soda
- ☐ Soda

See More Types



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Great Value **Root Beer**, 8 fl oz, 6 count
★★★★★ 17
\$1.64
Free pickup today

A&W **Root Beer**, 7.5 fl oz cans, 6 pack
★★★★★ 81
\$2.50 (33.3 c/fl oz)
Pickup Only
Free pickup today

A&W **Root Beer**, 12 fl oz bottles, 8 pack
★★★★★ 350
\$3.98 (27.8 c/fl oz)
Pickup Only
Free pickup today

Great Value Diet **Root Beer**, 67.6 fl oz
★★★★★ 47
\$0.74 (1.0 c/fl oz)
Pickup Only
Free pickup today

Sponsored Product
KOIOS Beverage Corp - Fit Soda - **Root Beer** Vanilla Float - BCAAs...
★★★★★ 8
\$15.99 (11.1 c/fl oz)
2-day delivery
W+ free shipping
Gift eligible

Mug **Root Beer**, 2 Liter Bottle
★★★★★ 44
\$1.78 (2.4 c/fl oz)
Pickup Only
Free pickup today

Mug **Root Beer**, 12 Fl Oz, 12 Count
★★★★★ 21
\$4.98
Pickup Only
Free pickup today

Hansen Soda Crrmy **Root Beer**, 7.2 Oz (Pack Of 4)
★★★★★ 5
\$18.73
Free delivery on orders over \$35
W+ free shipping

Stewart's Fountain Classics Real Sugar **Root Beer**, 12 Fl Oz, 4...
★★★★★ 14
\$2.82
Pickup Only
Free pickup today

Abita **Root Beer**, 12 Fl. Oz., 12 Count
★★★★★
\$19.99
Sold & shipped by Wakefield Enterprises LLC dba NolaCajun
Free delivery

A&W **Root Beer**, 20 fl oz bottle
★★★★★ 122
\$1.88
Pickup Only
Free pickup today

Blue Sky Soda **Root Beer**, 7.2 Oz (Pack Of 4)
★★★★★ 2
\$29.75
Free delivery on orders over \$35
W+ free shipping

Hansen Soda Crrmy Rt **Beer** Diet, 12 Oz (Pack Of 4)
★★★★★ 12
\$18.73 (\$1.56/fl oz)
Free delivery on orders over \$35
W+ free shipping

A&W **Root Beer** Zero Sugar Soda, 20 fl oz bottle
★★★★★ 136
\$1.88 (9.4 c/fl oz)
Pickup Only
Free pickup today

Frostie **Root Beer** 4 pack, 48 FO (Pack of 6)
★★★★★ 5
\$50.66
Sold & shipped by shopGourmet.com
Free delivery

A&W (Zero) Diet **Root Beer**, 12 Fl Oz Can, (Pack of 20, Total of 240...
★★★★★
\$29.99
Sold & shipped by Young Systems LLC
Free delivery

Great Value Cream Soda, 67.6 fl oz
★★★★★ 21
\$0.74
Free pickup today

Great Value Cream Soda, 12 fl oz, 12 count
★★★★★ 68
\$2.28
Pickup Only
Free pickup today

Variety Soda Drinks - 12 Pack of 7.5 Fluid Ounce Mini Cans - (6) A&W...
★★★★★ 1
\$37.20
Sold & shipped by Lootra
Free delivery



▼ root beer

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(4 Pack) Blue Sky Root Beer Creamy, 12 Oz.

★★★★★ 1

\$25.45

Walmart logo Free shipping

Sprecher Lo-Cal Root Beer Gourmet Soda, 4 ea (Pack of 6)

★★★★★ 1

\$69.22

Price Seller Sold & shipped by shopGourmet.com Free delivery

Root Beer Soda 2 fl. oz.

★★★★★

\$9.90

Sold & shipped by Home Brew Ohio Free delivery

Hanks Root Bear Hanks Root Beer, 4 ea

★★★★★

\$18.99

Sold & shipped by A Real Buy Inc.

Zatarains Root Beer Concentrate, 4 Ounce Plastic Bottle

★★★★★

\$13.58

Sold & shipped by DC Brands Free delivery

Virgil's Root Beer, 4 ea (Pack of 6)

★★★★★

\$64.81

Price Seller Sold & shipped by shopGourmet.com Free delivery

Zevia Zero Calorie Soda, Ginger Root Beer, Naturally Sweetened...

★★★★★ 1

\$30.90

Price Seller Sold & shipped by SRA Ecom Group LLC Free delivery

Bakto Flavors Natural Root Beer Flavor - 4 FL OZ

★★★★★

\$13.00

Sold & shipped by Bakto Flavors LLC Free delivery

BAWLS Guarana Root Beer 10oz 12 pack

★★★★★

\$28.00

Price Seller Sold & shipped by BAWLS Guarana

Zevia Zero Calorie Ginger Root Beer Soda 10-12 fl. oz. Cans

★★★★★ 2

\$25.67

Sold & shipped by Home_Goods_Emporium Free delivery

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☐ 4pk

☐ 6pk

☐ 8pk

☐ 10pk

☐ 12pk

Deals

Net Volume

Health Facts

Flavor

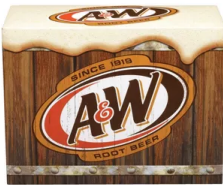
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32 results



A&W Root Beer - 12pk/12 fl oz Cans

A&W

★★★★★ 22


\$4.59

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A&W Root Beer - 2 L Bottle

A&W


★★★★★ 22

\$1.69

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A&W Root Beer - 6pk/7.5 fl oz Cans

A&W

★★★★★ 22

\$2.69

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Debit

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Root Beer : Target





Root Beer -
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\$8.49
Good Eggs ▼ 





Henry
Weinhard's So...

\$5.99
2.5 fl
Safeway ▼ 





Barqs Soda
Pop Root Bee...

\$4.99
4.4 fl
Safeway ▼ 




Henry
Weinhard's R...

\$8.99
7.9 fl
BevMol ▼ 



A&W Soda Diet
Root Beer - 1...


\$7.29
5.5 fl
Safeway ▼ 


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Showing 27 results for "cream soda".

Sort



\$5.99 / ea

Henry Weinhard's Soda Vanilla Cream - 6-12 Fl. Oz.

Sign In to Add

(\$0.08 / Fl.oz)



\$4.99 / ea

Zevia All Natural Soda Cream - 6-12 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)



\$3.99 / ea

IBC Soda Cream - 4-12 Fl. Oz.

Sign In to Add

(\$0.08 / Fl.oz)



\$7.99 / ea

Zevia Cream Soda Can - 10-12 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)



\$1.99 / ea

A&W Soda Cream Soda - 20 Fl. Oz.

Sign In to Add

(\$0.10 / Fl.oz)



\$5.99 / ea

Henry Weinhard's Soda Orange Cream - 6-12 Fl. Oz.

Sign In to Add

(\$0.08 / Fl.oz)



\$4.99 / ea

Dr Pepper Cream Soda - 6-16.9 Fl. Oz.

Sign In to Add

(\$0.05 / Fl.oz)



\$7.29 / ea

A&W Soda Root Beer - 12-12 Fl. Oz.

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(\$0.05 / Fl.oz)



\$3.00 / ea

A&W Soda Root Beer - 6-7.5 Fl. Oz.

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\$4.99 / ea

A&W Root Beer - 75 Fl. Oz.

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(\$0.07 / Fl.oz)



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A&W Soda Root Beer - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)



\$5.99 / ea

Dr Brown's Vanilla Cream Soda - 6-12 Fl. Oz.

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(\$0.08 / Fl.oz)



\$1.99 / ea

A&W Soda Root Beer - 20 Fl. Oz.

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A&W Soda Diet Root Beer - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)



\$1.67 / ea

Barqs Soda Pop Root Beer - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)



\$3.50 / ea

Mug Root Beer - 6-7.5 Fl. Oz.

Sign In to Add

(\$0.08 / Fl.oz)



\$3.99 / ea

Original New York Seltzer Soda Vanilla Cream - 6-12 Fl. Oz.

Sign In to Add

(\$0.10 / Fl.oz)



\$4.99 / ea

MUG Soda Root Beer No Caffeine - 12-12 Fl. Oz.

Sign In to Add

(\$0.04 / Fl.oz)



\$4.99 / ea

Stewarts Fountain Classics Orange'n Cream Soda - 4-12 Fl. Oz.

Sign In to Add

(\$0.10 / Fl.oz)




\$5.99 / ea

Virgils Soda Black Cherry Cream - 4-12 Fl. Oz.

Sign In to Add

(\$0.13 / Fl.oz)




A&W Soda
Root Beer - 8-
12 Fl. Oz.

\$6.99 / ea

A&W Soda Root Beer - 8-12 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)




Signature
SELECT Soda
Root Beer - 12-
12 Fl. Oz.

\$3.99 / ea

Signature SELECT Soda Root Beer - 12-12 Fl. Oz.

Sign In to Add

(\$0.03 / Fl.oz)




A&W Soda
Root Beer - 6-
0.5 Liter

\$3.00 / ea ~~\$4.99~~

A&W Soda Root Beer - 6-0.5 Liter

Sign In to Add

(\$0.03 / Fl.oz)




MUG Soda
Root Beer No
Caffeine - 2
Liter

\$1.67 / ea ~~\$2.29~~

MUG Soda Root Beer No Caffeine - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)




A&W Soda
Root Beer Diet
- 20 Fl. Oz.

\$1.99 / ea

A&W Soda Root Beer Diet - 20 Fl. Oz.

Sign In to Add

(\$0.02 / Fl.oz)




Mug Soda
Root Beer - 20
Fl. Oz.

\$1.99 / ea

Mug Soda Root Beer - 20 Fl. Oz.

Sign In to Add

(\$0.10 / Fl.oz)



A&W Soda
Root Beer - 24-
12 Fl. Oz.

\$9.99 / ea

A&W Soda Root Beer - 24-12 Fl. Oz.

Sign In to Add

(\$0.04 / Fl.oz)

Buy 2 Limit 1

Showing 28 results for "root beer".

Sort ▼



\$7.29 / ea

A&W Soda Root Beer - 12-12 Fl. Oz.

Sign In to Add

(\$0.05 / Fl.oz)



\$4.99 / ea ~~\$5.99~~

Zevia Soda Zero Calorie Ginger Root Beer - 6-12 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)



\$4.99 / ea

MUG Soda Root Beer No Caffeine - 12-12 Fl. Oz.

Sign In to Add

(\$0.04 / Fl.oz)



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Zevia Root Beer Ginger Zero Calorie Soda - 10-12 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)



\$4.99 / ea ~~\$5.99~~

A&W Root Beer - 75 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)



\$6.99 / ea

A&W Soda Root Beer - 8-12 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)



\$3.00 / ea ~~\$4.99~~

A&W Soda Root Beer - 6-0.5 Liter

Sign In to Add

(\$0.03 / Fl.oz)

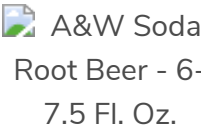


\$1.67 / ea ~~\$2.29~~

A&W Soda Root Beer - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)

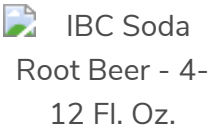


\$3.00 / ea ~~\$3.99~~

A&W Soda Root Beer - 6-7.5 Fl. Oz.

Sign In to Add

(\$0.07 / Fl.oz)

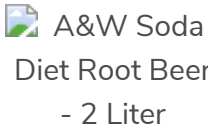


\$3.99 / ea

IBC Soda Root Beer - 4-12 Fl. Oz.

Sign In to Add

(\$0.08 / Fl.oz)

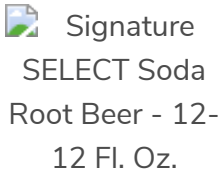


\$1.67 / ea ~~\$2.29~~

A&W Soda Diet Root Beer - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)

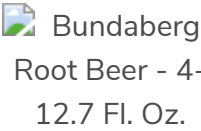


\$3.99 / ea

Signature SELECT Soda Root Beer - 12-12 Fl. Oz.

Sign In to Add

(\$0.03 / Fl.oz)

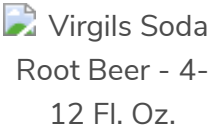


\$6.99 / ea ~~\$7.99~~

Bundaberg Root Beer - 4-12.7 Fl. Oz.

Sign In to Add

(\$0.14 / Fl.oz)

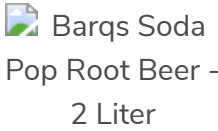


\$5.99 / ea

Virgils Soda Root Beer - 4-12 Fl. Oz.

Sign In to Add

(\$0.13 / Fl.oz)

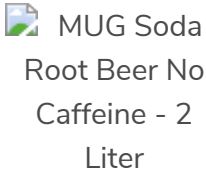


\$1.67 / ea

Barqs Soda Pop Root Beer - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)

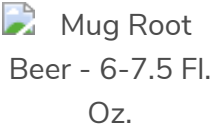


\$1.67 / ea ~~\$2.29~~

MUG Soda Root Beer No Caffeine - 2 Liter

Sign In to Add

(\$0.03 / Fl.oz)

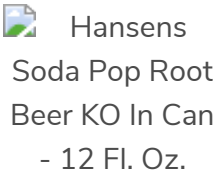


\$3.50 / ea ~~\$3.99~~

Mug Root Beer - 6-7.5 Fl. Oz.

exp 1/21

Sign In to Add

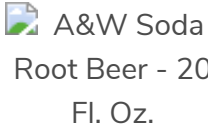


\$3.99 / ea

Hansens Soda Pop Root Beer KO In Can - 12 Fl. Oz.

Sign In to Add

(\$0.06 / Fl.oz)

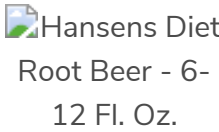


\$1.99 / ea

A&W Soda Root Beer - 20 Fl. Oz.

exp 2/7

Sign In to Add

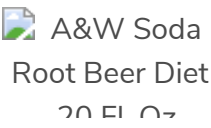


\$3.99 / ea

Hansens Diet Root Beer - 6-12 Fl. Oz.

Sign In to Add

(\$0.06 / Fl.oz)



(\$0.05 / Fl.oz)

